

**THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA**

Monday, June 8, 2009

7:00 P.M. Regular Session

MINUTES

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman Michael D. Page, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser, Becky M. Heron, and Brenda A. Howerton

Absent: None

Presider: Chairman Page

Opening of Regular Session—Pledge of Allegiance

Announcements

Chairman Page announced that applications are available for the Durham Neighborhood College 2009 Fall Term. He stated that the nine-week program is co-sponsored by the City and County of Durham and consists of presentations that help residents learn about government operations directly from elected officials and staff responsible for overseeing key services. Applications are available on the City or County websites and in the Clerk to the Board's office. The deadline to apply for Fall Term is July 27, 2009. Chairman Page urged citizens who are interested in the program to call 560-0000 for additional information.

Minutes

Commissioner Heron moved, seconded by Commissioner Howerton, to approve as submitted the May 4, 2009 Worksession and May 11, 2009 Regular Session Minutes of the Board.

The motion carried unanimously.

Vice-Chairman Reckhow referenced the May 11, 2009 Regular Session Minutes to ask the County Manager if the Memorandum of Agreement with Durham Public Schools regarding Scott King Road is on the staff's work list.

County Manager Ruffin responded in the affirmative.

Recognition of NACo Nationwide Scholarship Winner—Allen Marcos Faircloth

Marqueta Welton, Durham County Human Resources Director, introduced Debbie Turner, Nationwide Retirement Solutions, to present background information on the NACo Nationwide Scholarship and the Scholarship winner—Allen Marcos Faircloth.

Ms. Turner stated that for the 4th consecutive year, Nationwide Retirement Solutions and the National Association of Counties (NACo) have partnered to offer high school seniors an opportunity to apply for scholarships. This year, Nationwide will award four NACo college scholarships—each worth \$2,000—to four high school seniors whose parent(s) or grandparent(s) participate in NACo's 457 Deferred Compensation Plan.

Ms. Turner reported that Allen Marcos Faircloth is one of the four students selected from a pool of nearly 600 students who responded. This scholarship was established in recognition of the long-term partnership that Nationwide Retirement Solutions and the National Association of Counties (NACo) have, helping County employees save for retirement. Mr. Faircloth will use the funds to attend the University of North Carolina at Chapel Hill. His application was sponsored by his parent, Maria Velaz-Faircloth, who is a Durham County Public Health employee.

Ms. Turner congratulated Mr. Faircloth and presented him with an honorary \$2,000 check.

Hunger Awareness Month Proclamation

In the United States, hunger is, generally, less severe than in developing nations. This is in part because established programs—like Food and Nutrition Services (Food Stamps) and the Women, Infant and Children's Program (WIC)—help provide a safety net for many low-income families. However, in this recession, more Americans are having difficulty putting food on their tables.

Despite the good work of those programs, too many Americans and Durhamites are hungry. Hunger occurs when people are unable to obtain sufficient food for their household. Some may find themselves skipping meals or cutting back on the quality or quantity of food they purchase. This recurring and involuntary lack of access to food can lead to malnutrition. Hungry children struggle in school. Hunger in elderly adults can lead to serious health problems.

Chairman Page read the following proclamation into the record to recognize June as Hunger Awareness Month:

PROCLAMATION

WHEREAS, Durham County is home to more than 254,740 residents; and

WHEREAS, there are 39,739 individuals in Durham County living at or below the poverty level, representing 15.6% of Durham residents; and

WHEREAS, the U.S. Department of Agriculture estimates that 11.1% or 36.2 million Americans lived in households considered to be food insecure, meaning their access to enough food is limited by lack of money and other resources, for at least part of 2007, including 12.4 million children; and

WHEREAS, according to Feeding America (America's Second Harvest), North Carolina's Food Insecurity Rate is 12.9%, and North Carolina's Child Food Insecurity Rate is 19.4%, with a 24.1% rate for children under age five; and

WHEREAS, hunger has adverse consequences for all Americans, particularly for children and mothers; and

WHEREAS, hunger impedes growth and development; and

WHEREAS, hunger is a significant predictor of adverse health conditions; and

WHEREAS, hunger is associated with behavior problems among preschoolers and school-aged children; and

WHEREAS, the Food Bank of Central and Eastern North Carolina distributes 1,920,918 pounds of food annually in Durham County worth \$459,815; and

WHEREAS, the Department of Social Services has experienced a 120% increase in the number of recipients of Food and Nutrition Services (Food Stamps) since 2001—from 12,837 recipients on average in 2001 to 27,747 recipients in April 2009; and

WHEREAS, more than 27,700 Durham County residents have food on their tables, thanks to the Food and Nutrition Services Program (Food Stamps) at the Durham County Department of Social Services; and

WHEREAS half of all food stamp recipients are children, and 16,458 children receive free/reduced lunches during the school year; and

WHEREAS, 18 percent of food stamp households contain an elderly person, and 23 percent contain a disabled person; and

WHEREAS, every resident of Durham should have enough to eat and sufficient nutrition to carry out the daily tasks of life and work; and

WHEREAS, the Food Bank of Central and Eastern North Carolina, the Community Kitchen at Urban Ministries of Durham, and other nonprofits help to fill the gap for those who struggle to put food on their tables in Durham:

NOW, THEREFORE, BE IT RESOLVED that I, Michael D. Page, Chairman of the Durham County Board of Commissioners, do hereby proclaim June 2009 as

“HUNGER AWARENESS MONTH”.

I commend this observance to our residents and urge all citizens, community agencies, faith-based groups, and businesses to join with the Department of Social Services to commit to participate in food drives and to promote and participate in activities that raise awareness about hunger in our community.

This the 8th day of June, 2009.

/s/ Michael D. Page, Chairman

Rhonda Stevens thanked the Commissioners for recognizing June as Hunger Awareness Month, which provides an opportunity to educate the community about hunger throughout the world and in Durham County. She announced that the Food and Nutrition Services staff at DSS will distribute food bags on June 10 to 100 clients to raise awareness about hunger in the Durham community. Staff is also conducting outreach to help more families get connected to the Food and Nutrition Services program. Ms. Stevens added that more than 27,700 people in Durham have food on their tables, thanks to the Food and Nutrition Services program, yet the State estimates that only 69.96% of those potentially eligible for the program are enrolled. Many receive meals and non-perishable food from local non-profit organizations.

Pinkie Davis-Boyd, Program Manager, Food and Nutrition Services, reiterated that DSS will distribute food bags on June 10. She asked for continued support from the Board and citizens to help minimize hunger in the community.

Chairman Page thanked Food and Nutrition Services staff for its hard work and for the June 10 initiative. He presented the proclamation to Ms. Stevens and Ms. Davis-Boyd.

Proclamation Recognizing the 25th Anniversary of Inter-Neighborhood Council

Durham's Inter-Neighborhood Council was established in 1984 as a coalition of neighborhood and homeowners' associations. In addition, the group will hold its annual Neighborhood Heroes Awards Ceremony in conjunction with its 25th Anniversary Celebration from 7-9pm at Rigsbee Hall.

Commissioner Heron read the following proclamation to establish Thursday, June 18, as "Inter-Neighborhood Council Day":

PROCLAMATION

WHEREAS, Durham InterNeighborhood Council was organized in 1984 as a coalition of Durham's homeowner and neighborhood associations; and

WHEREAS, the group's mission is to provide the quality, stability, and vitality of Durham's residential neighborhoods; and

WHEREAS, the Durham's InterNeighborhood Council seeks to enhance the quality of life in this community by:

- Fostering cooperation among existing neighborhood organizations;
- Conducting monthly meetings and inviting government officials to address key issues with the neighbors;
- Working dynamically with the City and the County of Durham to ensure that the voice of the citizens are heard within the individual neighborhood organizations; and
- Developing appropriate policy positions on issues that directly impact their constituent neighborhoods; and

WHEREAS, this stellar organization begins its next chapter by continuing to develop neighborhood associations where none exist, and by working to maintain positive relationships that greatly enhance Durham's of life:

NOW, THEREFORE, BE IT RESOLVED that I, Michael D. Page, Chairman of the Durham County Board of Commissioners, do hereby proclaim Thursday, June 18, 2009, as

“INTERNEIGHBORHOOD COUNCIL DAY”

in Durham County in celebration of its 25th anniversary. I call upon all citizens to celebrate the positive and significant accomplishments that members of the INC have made towards maintaining Durham’s enviable quality of life.

This the 8th day of June, 2009.

/s/ Michael D. Page, Chairman

Commissioner Heron congratulated the Inter-Neighborhood Council (INC) for 25 years of advocacy and stated that she is proud to be a member.

Craigie Sanders, President of INC, thanked the Board for the proclamation and mentioned that the group works with communities and government leaders to help make Durham a better place to live.

Chairman Page asked Mr. Sanders to extend the Board’s congratulations to INC for its work in the community.

Mr. Sanders accepted the proclamation.

Resolution to Oppose “Public Health Improvement Plan” As Contained In Senate Bill 202

Chairman Page reminded Department Heads of designated seating at the front, which allows staff to respond faster to Board and citizen questions.

The Health Director requested that the Board pass a resolution opposing the “Public Health Improvement Plan” as contained in Senate Bill 202. This effort is supported by the full membership of the North Carolina Association of Local Health Directors (NCALHD) and state Public Health professionals.

The NCALHD will include this resolution with similar resolutions from other counties and present them to members of the legislature.

Chairman Page read the following resolution:

RESOLUTION

WHEREAS, Section 10.26 of Senate Bill 202 contains a provision entitled “Public Health Improvement Plan”; and

WHEREAS, the Public Health Improvement Plan was proposed with no input from local government officials or local and state public health professionals; and

WHEREAS, the plan sets out an unreasonable timeline for such reform of the current public health system; and

WHEREAS, the plan calls for no additional public health funding, rather a redistribution of the existing, insufficient funds with no defined distribution formulas; and

WHEREAS, the plan calls for the creation of a Public Health Improvement Plan Task Force, which is a duplication of the existing Public Health Task Force; and

WHEREAS, many North Carolina counties are in the process of rebuilding the Mental Health infrastructure requiring greater contributions of local funds; and

WHEREAS, the same North Carolina counties can ill afford alteration of the public health infrastructure requiring greater local funding to provide core public health services:

NOW, THEREFORE, BE IT RESOLVED that Durham County is opposed to Section 10.26 of Senate Bill 202 or any other budget provision entitled "Public Health Improvement Plan" and stands opposed to any efforts to reform public health absent appropriate planning and input from local government officials and local public health professionals.

This the 8th day of June, 2009.

/s/ All Five Commissioners

Gayle Harris, Health Director, thanked the Board for its support of the resolution. She briefly elaborated on the purpose of the resolution.

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to approve and forward the resolution to the Senate.

The motion carried unanimously.

Chairman Page thanked Ms. Harris for submitting the resolution to the Board.

Ms. Harris accepted the proclamation.

Chairman Page called signed speaker Dr. E. Lavonia Allison, representing Durham Committee for the Affairs of Black People, PO Box 428, Durham 27702, forward for comments.

Dr. Allison discussed the Health Equity and Accountability Act of 2009.

Ms. Harris stated that Public Health would be willing to work with the Health Committee.

Consent Agenda

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to approve the following consent agenda items:

- *a. Resolution to Approve the Durham County Ten-Year (2009-2019) Comprehensive Solid Waste Management Plan (adopt a Resolution to Approve the Durham County Ten-Year 2009-2019 Comprehensive Solid Waste Management Plan and forwarded it NC-DENR, not later than June 30, 2009);
- b. Approval of Durham's Home and Community Care Block Grant Funding Plan through the Department of Social Services (funding for the Plan has been incorporated into the Manager's proposed FY 2010 Budget);
- c. Purchase of Library Books and Cataloging/Processing Services (authorize the County Manager to enter into a contract with Baker & Taylor Inc. for the acquisition of library books and cataloging/processing services for a total amount not to exceed \$944,262, with an option to renew the contract for five successive one-year periods);
- d. Purchase of Audiovisual Materials and Cataloging/Processing Services (authorize the County Manager to enter into a contract with Midwest Tape, LLC for the acquisition of audiovisual materials and cataloging/processing services for a total amount not to exceed \$187,000, with an option to renew the contract for three successive one-year periods; authorize the County Manager to enter into a contract with Books on Tape Inc., a division of Random House, for the acquisition of audio books on discs and cataloging/processing services for a total amount not to exceed \$15,000, with an option to renew the contract for three successive one-year periods);
- e. Lowes Grove Middle School—Right-of-Way Dedication and Plat (approval of the right-of-way dedication and corresponding Final Plat that will be recorded in the Durham County Register of Deeds Office); ***Chairman Page thanked Deputy County Manager Wendell Davis and County Engineer Glen Whisler for following up on this item;***
- f. Durham Public Schools Construction Project at Creekside Elementary School (approve the owner/contractor agreement with H.M. Kern Corporation for the classroom addition project at Creekside Elementary School in the amount of \$2,229,000; authorize the Manager to execute the agreement pursuant to the terms of the Interlocal Agreement with Durham Public Schools);
- g. Durham Public Schools Hillside High School New Tech Modular Classroom Building (approve the owner/contractor agreement with Modular Technologies Inc. for a new modular classroom building at Hillside High School in the amount of \$319,329; authorize the Manager to execute the agreement pursuant to the terms of the Interlocal Agreement with Durham Public Schools);
- h. Durham Public Schools Auditorium Lighting Upgrades at Northern High School (approve the agreement with Watson

- Electrical Construction Co. LLC for auditorium lighting upgrades at Northern High School in the amount of \$218,935; authorize the Manager to execute the agreement);
- i. Durham Public Schools Hillside High School Cafeteria Expansion Project (approve the owner/contractor agreement with C.T. Wilson Construction for cafeteria expansion project at Hillside High School in the amount of \$417,816; authorize the Manager to execute the agreement pursuant to the terms of the Interlocal Agreement with Durham Public Schools); ***Vice-Chairman Reckhow inquired about the bid compared to the amount approved in the bond;***
 - j. Recognize Asset Contributions for Durham County EMS from the Welch Allyn Time-MC Study Ended October 1, 2008 (approve acceptance of the donated equipment for Durham County EMS from Welch Allyn Protocol Inc.);
 - k. REMOVED PRIOR TO MEETING;
 - l. Approve Final Budget and Acquisition of Conservation Easements for the Tilley Phase II Conservation Easements (approve the final budget for the 137-acre Tilley Phase II conservation easements; authorize the Manager to execute the conservation easement agreements on the 137-acre Phase II Tilley Farm project);
 - m. Annual Report—Durham Bicycle and Pedestrian Advisory Commission;
 - n. Replacement Appointment to the 2009 E&R Board (appoint Mr. Spurgeon Booth Jr. to the 2009 special Board of Equalization and Review due to a vacancy);
 - o. Update on Conservation Subdivisions;
 - p. Annual Report—Development Review Board;
 - *q. Durham Cooperative Extension—Memorandum of Understanding between the Board of County Commissioners (BOCC), the North Carolina Cooperative Extension Service (NCCES), North Carolina State University (NCSU), North Carolina Cooperative Extension Program (NCCEP), and North Carolina A&T University (NCA&T);
 - *r. Budget Ordinance Amendment No. 09BCC000074—Appropriate Lottery Funds (\$1,514,458) for Debt Service Support and Transfer an Equal Amount from the Debt Service Fund to the General Fund to Support an Agreement Between Durham Public Schools and Durham County; and
 - s. Health & Human Services Financing (2009B certificates) (adopt the resolution and authorize the execution of the required documents upon approval by the Local Government Commission).

The motion carried unanimously.

Documents related to these items follow:

Consent Agenda Item No. a. Resolution to Approve the Durham County Ten-Year (2009-2019) Comprehensive Solid Waste Management Plan (adopt a Resolution to Approve the Durham County Ten-Year 2009-2019 Comprehensive Solid Waste Management Plan and forwarded it NC-DENR, not later than June 30, 2009).

RESOLUTION TO APPROVE THE DURHAM COUNTY 10-YEAR (2009-2019)
COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN

WHEREAS, better planning for solid waste will help protect public health and the environment, provide for an improved solid waste management system, better utilize our natural resources, control the cost of solid waste management; and

WHEREAS, NC General Statute 130A-309.09A(b) requires each unit of local government, either individually or in cooperation with other units of local government, to develop a 10-year comprehensive solid waste management plan, provide 3-year revisions; and

WHEREAS, Durham County coordinated with the City of Durham in the preparation of the required 3-year revision to the plan;

NOW, THEREFORE, BE IT RESOLVED that the County Commissioners of Durham County hereby approve the Durham County 10-year (2009-2019) Comprehensive Solid Waste Management Plan.

Adopted by the Board of County Commissioners during regular session on this 8th day of June 2009.

/s/ Michael D. Page, Chairman
County Commissioners

Consent Agenda Item No. q. Durham Cooperative Extension—Memorandum of Understanding between the Board of County Commissioners (BOCC), the North Carolina Cooperative Extension Service (NCCES), North Carolina State University (NCSU), North Carolina Cooperative Extension Program (NCCEP), and North Carolina A&T University (NCA&T).

MEMORANDUM OF UNDERSTANDING
Between The Board of County Commissioners and
The North Carolina Cooperative Extension Service North Carolina State University and The
North Carolina Cooperative Extension Program North Carolina A&T State University

PREAMBLE

The North Carolina Cooperative Extension Service (NCCES) was established as a part of the College of Agriculture and Life Sciences of North Carolina State University (NCSU) by federal and state legislation for the specific purpose of “extending” the educational services of the University to the people of the state on subjects related to agriculture and natural resources, family and consumer sciences, 4-H and youth development, and community and rural development. The laws creating the Cooperative Extension Service were specifically designed to assure that the findings of research in these areas are communicated to the people of the state.

Under the Federal Appropriations Act of 1972, funds were provided to the 1862 land-grant universities (NCSU) to enhance the extension outreach of the 1890 universities, which included North Carolina A&T State University (NCA&T). The Food and Agriculture Act of 1977 further stipulated that these funds be appropriated directly to the 1890 institutions, and formalized the North Carolina Cooperative Extension Program (NCCEP) as an official part of the School of Agriculture and Environmental Sciences at NCA&T.

While representing two separate Universities, the North Carolina Cooperative Extension Service (NCSU) and the North Carolina Cooperative Extension Program (NCA&T) work together to better serve the people of the State through the delivery of locally relevant programs, education and expertise.

Legislation further provided for a cooperative relationship among three levels of government—federal, state, and county—to ensure that the needs of all three levels are addressed.

The primary purpose of North Carolina Cooperative Extension is to provide the people of North Carolina with the most current and relevant unbiased research-based information—particularly that which is related to strengthening the economy through profitable, sustainable and safe food, forest and green industry systems; to protecting the environment and natural resources; and to empowering youth and families to lead healthier lives and become community leaders. This is accomplished by Cooperative Extension employees who are charged with carrying out the extension education programs of the university and the U.S. Department of Agriculture.

Cooperative Extension has sufficient flexibility to permit attention to the special problems, needs and interests of the citizens and leadership in each county. Therefore, the programmatic, personnel and funding complement reflects the unique needs of each county. County Advisory Councils are consulted on a regular basis to assist in prioritizing the county educational program content. Program clientele or recipients of services include individuals, families, communities, municipalities, agricultural and seafood processing and marketing firms, other businesses and certain organizations. This includes work with adults and youth in both urban and rural settings.

To assure that educational programs offered by Cooperative Extension meet the needs of local clientele, it is important that both elected and appointed decision makers at each level of government understand their respective responsibilities and relationships in the conduct and funding of this work. To this end, the following portions of this Memorandum of Understanding will detail the individual relationships and mutually agreed upon responsibilities of NCSU, NCA&T and each county that signs this agreement.

Part I.

The North Carolina Cooperative Extension Service and
the North Carolina Cooperative Extension Program will:

1. Establish minimum requirements and qualifications for employment in Extension work.
2. Receive and examine applications for employment.
3. Interview and screen applicants to determine their qualifications and availability.
4. Consult with the Board of County Commissioners, or the County Manager as designee, regarding qualified applicants for appointment to vacant or new Extension positions.

5. Consult with the Board of County Commissioners, or the County Manager as designee, regarding the salaries of all Extension employees, including County Extension Directors, Extension Agents, Extension Paraprofessionals, Extension Secretaries, and any other Cooperative Extension-based positions.
6. Determine jointly with the County Board of Commissioners, or the County Manager as designee, the share of salaries to be paid by each and provide the University share of these salaries.
7. Prepare and submit an annual budget to the Board of County Commissioners, or the County Manager as designee, for securing the county's share of funds for salaries and operating expenses each fiscal year.
8. Provide funds for official travel necessary to conduct Extension work to the extent that funds are available and for purposes authorized by state and federal policies.
9. Provide Extension employees with funds for postage, bulletins, leaflets and other publications for delivering Extension programming and conducting regular business.
10. Accept responsibility and provide the leadership for administration and supervision for Extension programs and personnel, including compliance with affirmative action and equal employment opportunity requirements.
11. Develop and administer a personnel management plan that will provide the annual review of each worker's performance, counseling for job improvement where needed, and periodic county program reviews.
12. Provide a staff of specialists to train agents in current technology and other changes affecting agriculture and natural resources, family and consumer sciences, 4-H and youth, and community and rural development and to assist them in conducting work in these areas.
13. Provide Extension workers with training programs as needed to maintain effective program delivery.
14. Seek regular input from the County and maintain a County Advisory Leadership System to ensure that county Extension programs are based on the particular needs of people in their respective county.
15. Prepare and submit a "Report to the People" to the Board of Commissioners, or the County Manager as designee, at least annually, informing the Board or Manager of Extension programs and work accomplished.

Part II.

The Board of County Commissioners will:

1. Provide the County's share of salaries and benefits for Extension personnel.
2. Comply with the State of North Carolina's Worker's Compensation Act, N.C. General Statute § 97-2(2).
3. Provide offices, equipment, utilities, telephones, office supplies, instructional materials and other items needed for efficient operation of the County Extension Center and program; and comply with the accessibility provisions of the Americans with Disabilities Act.
4. Review and consider the annual budget request from NCCES/NCCEP, and take appropriate action by July 1 of each fiscal year.
5. Provide regular input to the District and County Extension Directors on the particular needs of people in their respective county to help ensure that county Extension programs are based on specific needs and meet county programming plans.

Part III.

The North Carolina Cooperative Extension Service, the North Carolina Cooperative Extension Program, and the Board of County Commissioners mutually agree:

1. That all county Extension employment appointments and separations will be made in consultation between NCCES, NCCEP, or both (based on funding of the position), and the Board of County Commissioners, or the County Manager as designee, and that no official action related to such appointments or separations will be taken by either party regarding appointment or separation prior to discussion of the matter with the other party.
2. That the Board of County Commissioners and NCCES/NCCEP shall each be responsible for compliance with applicable laws and regulations relating to their respective operations.
3. To cooperate in applying affirmative action and equal employment opportunity plans of NCCES/NCCEP.
4. That the policies established by the State of North Carolina under N.C. General Statute §126 and followed by the UNC System be used in granting and administration of leave related to the earning rates, transfer policies, payout computation and timing, and administration of vacation, sick, civil, community involvement, military, Family and Medical Leave, Family Illness Leave, leaves of absence, and other approved leave programs for Cooperative Extension personnel. Educational leaves of absence for EPA employees provided under University policy will be reviewed in consultation with the County.
5. That Extension employees will follow county policies relative to office hours, office closings for inclement weather and holidays, and for the management and use of county property.
6. That Extension employees will not be classified under a county classification system.
7. Send-in Provisions of the Cooperative Arrangement
 - 7.1. Transitioning to Send-In
 - 7.1.1. All new hires to Cooperative Extension beginning January 1, 2007, and thereafter, will be covered under the “send-in” payroll arrangement provisions as outlined below.
 - 7.1.2. All current Extension employees in non-send-in payroll arrangements as of October 1, 2006, will have two open-window options in which to convert from “nonsend-in” (also known as “regular”) to “send-in” per their respective individual choices. There will be two annual conversion windows in which the employees will make their choice. These two annual windows will coincide with the annual NC Flex open-enrollment dates for 2006 and 2007 as published by NC Flex. Employees must communicate their desire to change to “send-in” by submitting an official request form available from the College of Life Sciences Personnel Office at NCSU or NCCEP Administrative office. The change will be effective January 1 of the year following the communication of their choice, either 2007 or 2008. The employee must utilize the NC Flex open-enrollment period to change any applicable benefits except for retirement contributions and health insurance. Outside of these two specific open-enrollment periods, current employees will (1) remain in their respective county’s payroll arrangement for the remainder of their employment in

their respective county, or (2) change to “send-in” under the provisions outlined in 7.1.3. or 7.1.4. below.

7.1.3. Effective January 1, 2007, and thereafter, all current Extension employees transferring between counties into other Extension positions will be converted to “send-in” upon transfer to the new County.

7.1.4. NCCES/NCCEP will review the total population of non-send-in employees across the state annually each March 1. At such time that the total number of Extension employees across the State falls to or below 50, irrespective of the individual count in any one county, all remaining non-send-in employees will be converted to “send-in” effective January 1 of the next year. NCCES/NCCEP will notify in writing the respective Boards and County Managers by May 1, so that arrangements can be considered in time for the changing fiscal years beginning July 1.

7.2. Establishing Accounts to Operationalize the Send-In Process

To operationalize the “send-in” payroll arrangement, NCCES/NCCEP will establish a Trust Fund Account for the County at NCSU/NCA&T that will serve as the vehicle for the transfer of funds from the County to NCSU/NCA&T for use in paying the county’s agreed-upon share of salary and benefits for Extension personnel.

7.2.1. Procedure for Providing Funds to the Account

A State Treasurer’s Electronic Payment System (STEPS) form will be completed and the original submitted to the Associate Director of Cooperative Extension via the appropriate District Extension Director. The County Finance Officer, or the designated County representative, will receive notification from the NCSU College of Agriculture and Life Sciences Personnel Office or the NCA&T Personnel Office prior to the University’s payroll date, generally the last working day of each month, advising the amount due for the current payroll. Within 5 business days following the payday, the respective University will draft against the County’s established trust account in the amount communicated.

7.2.2. Administration of the Account

The trust account will be maintained in accordance with the respective NCSU or NCA&T accounting policies and procedures. The trust account will be audited and reconciled by the NCSU College of Agriculture and Life Sciences Business Office or the NCA&T College of Agriculture and Environmental Sciences Business Office, respectively, to ensure the month-end account balance remains zero.

7.3. Employee Benefits

7.3.1. Retirement Benefits

All “send-in” Extension Personnel will participate solely in either the North Carolina Teachers and State Employees Retirement System and accompanying North Carolina Disability Income Plan, or the Optional Retirement Plan, based on eligibility criteria established by the State. They will be eligible solely for respective NCSU or NCA&T employee benefits for which they qualify based on their appointment and FTE, and former federal appointees will maintain federal benefits, the employer paid parts of which will be paid for solely by NCSU or NCA&T.

7.3.2. Taxes and Fringe Benefits

The County will be responsible for providing their proportional share of fringe benefits for all send-in Extension personnel, including but not limited to the following:

7.3.2(a) Employer contributions to all applicable Federal and State taxes.

7.3.2(b) Employer contribution to the State Retirement System per N.C. General Statute §135, or to the Optional Retirement Plan per N.C. General Statute §135-5.1.

7.3.2(c) Employer contribution to the Health Insurance matching charges per N.C. General Statute §135.

7.3.3. Workers' Compensation will be administered pursuant to N.C. General Statute §97-2(2).

7.3.3(a) The County will provide full and direct coverage for those employees subject to the County workers' compensation insurance within the county insurance program. Employees for whom the County will maintain workers' compensation coverage are the following:

7.3.3(a)(1) All secretarial and any other positions designated as SPA (subject to the State Personnel Act); and

7.3.3(a)(2) All Program Assistants/Associates who are not funded by directly allocated federal funds such as EFNEP, or Program Assistants/Associates who are paid in part by EFNEP funds but which account for less than 50% funding.

7.3.3(b) NCSU/NCA&T will provide full and direct coverage for their respective Extension employees subject to the respective University's workers' compensation insurance within the respective University's insurance program. Extension employees for whom the respective University will maintain workers' compensation coverage are the following:

7.3.3(b)(1) All County Extension Directors and Extension Agents.

7.3.3(b)(2) All Program Assistants or Associates who are funded by directly allocated federal funds such as EFNEP, or Programs Assistants or Associates who are paid in part by EFNEP funds at equal to or more than 50% funding.

7.3.4. NCSU/NCA&T will process severance pay under reductions-in-force (RIFs) as approved under Office of State Personnel guidelines for County-based employees subject to the State Personnel Act (SPA) and unemployment compensation as mandated by the State.

7.3.5. The County will pay its proportional share of annual/vacation leave, up to a maximum of 240 hours per the OSP and/or UNC System guidelines, and any bonus leave balance as explicitly approved per each county per year granted, upon an employee's separation.

7.3.6. The County will pay its proportional share of state longevity for SPA employees upon an employee's service anniversary date.

7.3.7. The County will pay its proportional share of any accrued "extra" time (hour-for-hour) or overtime (1.5 hour-for-hour) to Extension employees that are subject to Fair Labor Standards Act or North Carolina Wage and Hour Act upon an employee's earning anniversary date or as due to the employee at the time of separation.

7.4 Optional County-paid Salary Increases or Bonuses to Extension Personnel
At their discretion, Counties may award additional permanent salary increases or onetime pay awards to Extension Personnel. If this is so desired by the County under the "send-in" payroll arrangement, this action must be communicated to the appropriate District Extension Director's office no later than the first of any month in which the desired increase or bonus is to be applied.

8. Optional Lock-in Provision

This section, if enacted by separate signature of the County, effects an optional "lock-in" agreement between the County and NCSU/NCA&T for Extension personnel. The "lock-in" provision establishes constants to be maintained over the course of the agreement for cost-share percentages.

8.1 Salary Adjustments for SPA Employees under the Lock-in Provision

County and NCSU/NCA&T will fund salary adjustments and increases so that the funding percentages agreed upon in the lock-in section below are maintained. The full compensation plan for state employees as approved by the General Assembly will serve as the basis for compensation adjustments and both the County and NCSU/NCA&T will adhere to the lock-in plan's effective dates and implementation instructions. Extension personnel receiving salary from grant funds will be governed by the terms and conditions of the applicable grant within the scope and applicability of NCSU/NCA&T personnel policies governing grants.

These compensation components include, but are not limited to:

- 8.1.1. Across-the-board adjustments,
- 8.1.2. Cost-of-living adjustments (COLA),
- 8.1.3. Merit adjustments,
- 8.1.4. Bonuses (in any form conveyed), and
- 8.1.5. Promotion, classification, market, or equity adjustments.

8.2. Salary Adjustments for EPA Employees under the Lock-In Provision

County and NCSU/NCA&T will fund salary adjustments and increases so that the funding percentages agreed upon in the lock-in section below are maintained. The full compensation plan for University employees as approved by the General Assembly and implemented by the Office of the President, University of North Carolina System, will serve as the basis for all compensation adjustments and both the County and NCSU/NCA&T will adhere to the plan's effective dates and implementation instructions. Extension personnel receiving salary from grant funds will be governed by the terms and conditions of the applicable grant within the scope and applicability of NCSU/NCA&T personnel policies governing grants. These compensation components include, but are not limited to:

- 8.2.1. Across-the-board adjustments,
- 8.2.2. Cost-of-living adjustments (COLA),
- 8.2.3. Merit adjustments,
- 8.2.4. Bonuses (in any form conveyed), and
- 8.2.5. Promotion, classification, market, or equity adjustments.

8.3. Enacting the Lock-in Provision

By signing at this section separately, the County and NCSU/NCA&T shall adhere to the following provisions, guidelines, and procedures.

Salary and Benefits

Salaries and benefits, as delineated above in 7.3, may be split on the basis of either (Option A) type of employee (EPA and/or SPA), or (Option B) individual position.

The County and NCSU/NCA&T agree on the following proportional salary and benefits funding percentages, applicable throughout the duration of this Memorandum of Understanding:

8.3. Option A.

All EPA employees _____ % County _____ % NCSU/NCA&T

All SPA employees _____ % County _____ % NCSU/NCA&T

* any position added to this county's staff of Extension Personnel subsequent to the effective date of this Agreement will adhere to the above percentages.

Board Chair or County Manager Signature	Printed Name	Title	Date
<i>Signature for Option A Lock-in Provision ONLY</i>			

OR

8.3. Option B. Each position shared per the list of detailed percentages below:

_____	_____	_____	_____	_____	_____
	% County		% NCSU/NCA&T		
_____	_____	_____	_____	_____	_____
	% County		% NCSU/NCA&T		
_____	_____	_____	_____	_____	_____
	% County		% NCSU/NCA&T		
_____	_____	_____	_____	_____	_____
	% County		% NCSU/NCA&T		
_____	_____	_____	_____	_____	_____
	% County		% NCSU/NCA&T		

_____ % County _____ % NCSU/NCA&T
 _____ % County _____ % NCSU/NCA&T
 _____ % County _____ % NCSU/NCA&T
 _____ % County _____ % NCSU/NCA&T
 _____ % County _____ % NCSU/NCA&T

* any position added to this county’s staff of Extension Personnel through mutual agreement between the County and NCSU/NCA&T subsequent to the effective date of this Agreement will document the funding splits in correspondence between this County and NCSU/NCA&T, and will become a part of this Agreement.

Board Chair or County Manager Signature Printed Name Title Date
Signature for Option B Lock-in Provision ONLY

9. A semi-annual meeting will be convened to maintain communication of ideas, developments, concerns and changes within the scope of the Counties and Cooperative Extension relationship. Members of the committee will include representatives of the North Carolina Association of County Commissioners (NCAAC), representatives from County Governments as recommended by the NCAAC, and administrators and designees of Cooperative Extension.

We are in agreement with the above description of the responsibilities and relationships, and that this Memorandum of Understanding may be reviewed at any time. Each party is responsible for all actions for which they have sole responsibility or for which they take unilateral action.

Consent Agenda Item No. r. Budget Ordinance Amendment No. 09BCC000074—Appropriate Lottery Funds (\$1,514,458) for Debt Service Support and Transfer an Equal Amount from the Debt Service Fund to the General Fund to Support an Agreement Between Durham Public Schools and Durham County.

DURHAM COUNTY, NORTH CAROLINA
 FY 2008-09 Budget Ordinance
 Amendment No. 09BCC000074

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Other Financing Sources	\$36,050,303	\$1,514,458	\$37,564,761
<u>DEBT SERVICE FUND</u>			
Other Financing Sources	\$44,510,662	\$1,514,458	\$46,025,120

Expenditures:

<u>Function</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
-----------------	-----------------------	--------------------------	-----------------------

GENERAL FUND

Other Financing Sources \$29,830,050 \$1,514,458 \$31,344,508

DEBT SERVICE FUND

Other Financing Sources \$44,816,116 \$1,514,458 \$46,330,574

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 8th day of June, 2009.

Public Hearing on the FY 2009-2010 Recommended Budget

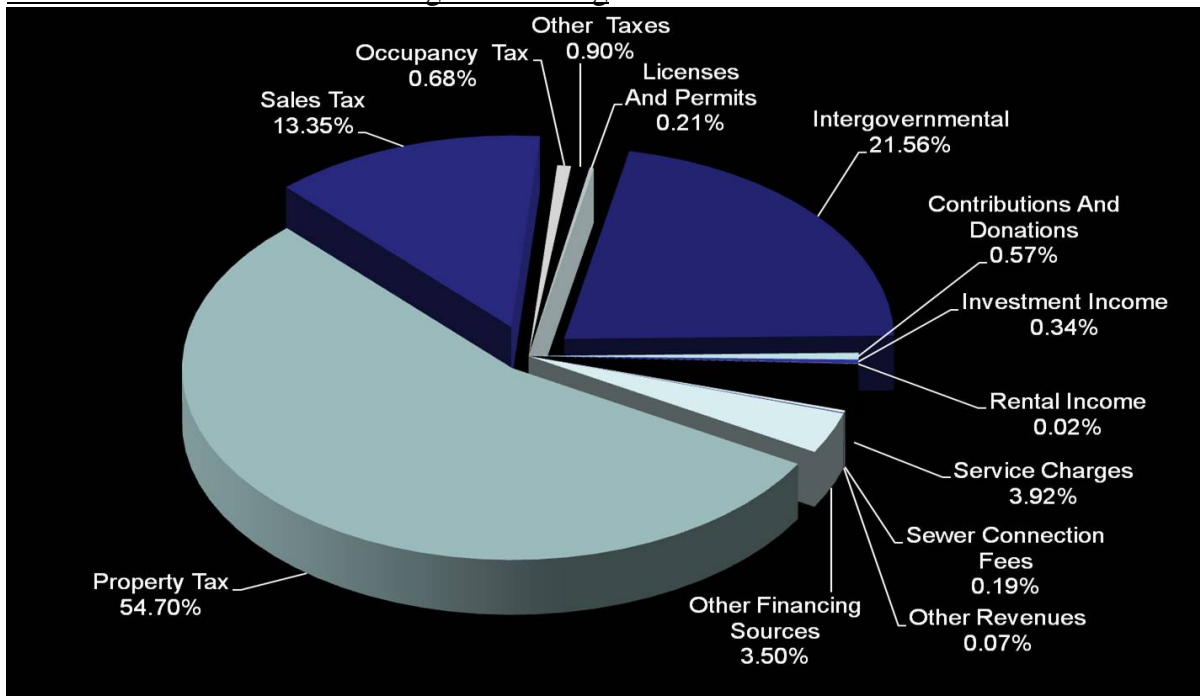
The Board of Commissioners conducted a public hearing to receive citizen input on the FY 2009-2010 Recommended Budget.

County Manager Mike Ruffin provided the following brief introduction to his FY09-10 recommended budget:

General Fund Budget With & Without Federal Pass Through Funds

	FY 2009 Approved	FY 2010 Recommended	% Change
Total Budget	\$683,911,355	\$710,434,200	3.88%
Without Pass Through Funding	\$364,466,975	\$342,041,047	-6.2%

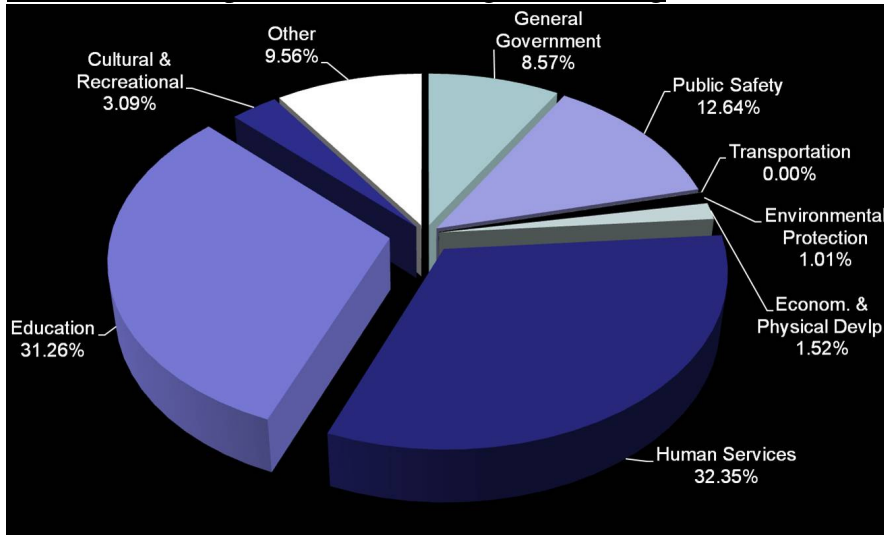
General Fund Revenue Excluding Pass Through



Revenue Highlights

- Tax collection rate decrease to 97.75%, from 98.5% in FY09
- General Fund fund balance appropriation of \$6.5 million (down from \$13.5 million in FY09)
- Register of Deeds revenues decline by \$1 million
- Engineering revenues decrease of \$200,000
- Pass-through funding increases by \$48.95 million to \$368.39 million for FY10

General Fund Expenditures Excluding Pass Through



Expenditure Highlights

- | | |
|----------------------------|----------------|
| • Durham Public Schools | 2.8% reduction |
| • Durham Tech | 2.8% reduction |
| • County departments | 6.6% reduction |
| • Non-Profit Agencies | 6.6% reduction |
| • Museum of Life & Science | 6.6% reduction |

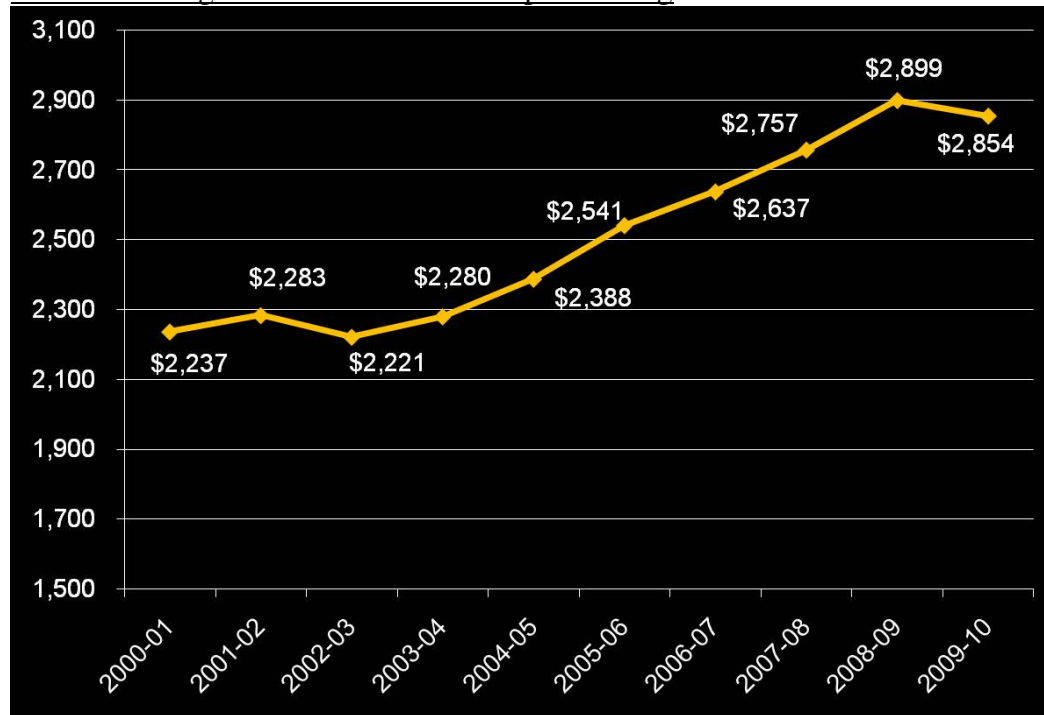
Durham Public Schools

Category	FY09 Board of Education Request	FY10 Board of Education Request
Continuation Budget		
<i>Student Growth</i>		
Student Growth @ same \$ per pupil as FY08 - DPS	\$ 2,795,390	-
Student Growth @ same \$ per pupil as FY08 - Charter	\$ (1,061,366)	-
<i>Subtotal</i>	\$ 1,734,024	-
<i>Operational Costs</i>		
Inflationary/cost increases required for utilities, natural gas, and classroom supplies and equipment	\$ 990,325	\$ 1,389,106
New square footage coming online	\$ 945,549	\$ 261,689
Holton Career and Resource Center		\$ 355,692
<i>Subtotal</i>	\$ 1,935,874	\$ 2,006,486
<i>Salary and Benefits</i>		
<i>Subtotal</i>	\$ 3,352,645	\$ 2,490,222
Continuation Budget Total	\$ 7,022,543	\$ 4,496,708
Supplemental Budget Total	\$ 532,480	\$ 485,000
DPS Budget Reduction Total	\$ -	\$ (3,531,296)
TOTAL DPS BUDGET INCREASE REQUEST/REQUIREMENT	\$ 7,555,023	\$ 1,450,412

Recommended DPS Budget Highlights

- 2.8% reduction to Current Expense:
 - Overpayment for 336 students who did not attend in FY 09 (\$926,352)
 - Reduction of County funding for state allotted decrease in students (464) for FY10 (\$1,345,136)
 - Decrease proposed by Superintendent (\$649,588)
- 2.8% (\$2,921,076) reduction (or 1.03 tax rate cents) from FY 09 approved budget

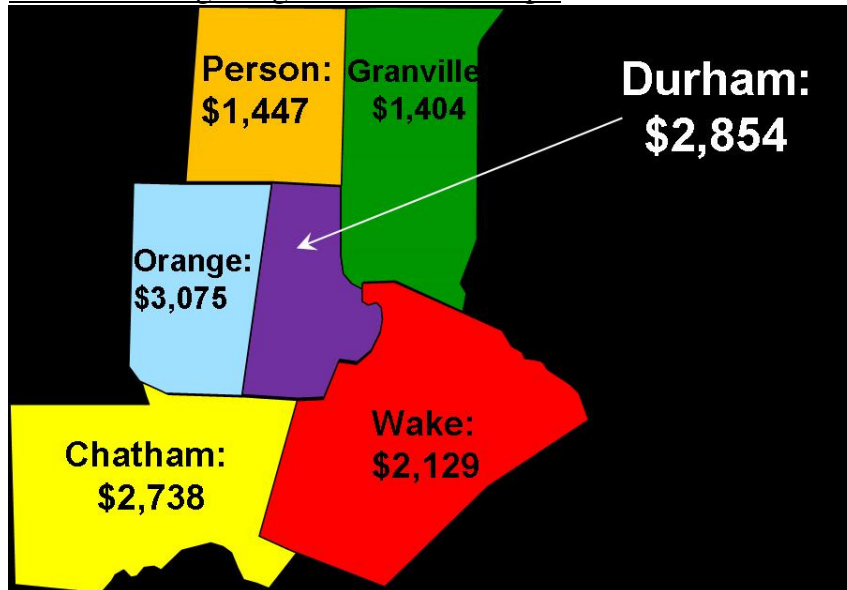
School Funding: DPS Historical Per Pupil Funding



School Funding: 10 Most Populous Counties

FY10 Rank	County	FY 2008-09 Approved Current Expense Per Pupil	FY 2009-10 Recommended Current Expense Per Pupil	% Change from FY09 to FY10
1	Durham	\$2,899	\$2,854	-1.6%
2	New Hanover	\$2,682	\$2,520	-6.1%
3	Guilford	\$2,382	\$2,411	1.2%
4	Mecklenburg	\$2,478	\$2,249	-9.2%
5	Wake	\$2,179	\$2,129	-2.3%
6	Forsyth	\$2,016	\$2,079	3.1%
7	Buncombe	\$1,774	\$1,751	-1.3%
8	Cumberland	\$1,338	\$1,386	3.6%
9	Onslow	\$1,332	\$1,351	1.4%
10	Gaston	\$1,274	\$1,288	1.1%

School Funding: Regional FY10 Per Pupil



Commissioner Bowser mentioned the decrease in tax collection rate, from 98.5% to 97.75%. He inquired about the amount in dollars that is equal to 97.75%.

Pam Meyer, Budget & Management Services Director, responded that the amount is approximately \$2 million.

Chairman Page opened the public hearing and called the following signed speakers forward for comments:

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, offered various options to help generate additional revenue for the County.

Allan Lang, 601 Flagstone Way, Durham 27712, discussed areas where Durham Public Schools could save costs.

Alison Davis, 3117 Hope Valley Road, Durham 27707, opposed budget cuts for Durham Public Schools and suggested raising taxes.

Kristi Moore, representing the Durham Association of Educators, 2919 Colony Road, Durham 27705, opposed budget cuts for Durham Public Schools.

Wisdom Pharaoh, representing Durham CAN, McDougald Terrace, Durham 27701, spoke in support of retaining the *Encore!* program.

Mike Broadway, representing Mt. Level Missionary Baptist Church and Durham CAN, 900 Demerius Street, Durham 27701, opposed budget cuts for Durham Public Schools.

Mary McClintuck Fulkerson, representing Durham CAN, 815 Pleasant Green Road, Hillsborough 27278, expressed concerns regarding teacher position cuts and teachers providing classroom supplies.

Nichelle Hopson, representing *Encore!*, 1212 Antler Point Drive, Durham 27713, spoke in support of retaining the *Encore!* program.

Larry C. Wallace, 2009B Peppertree Street, Durham 27705, opposed budget cuts for Durham Public Schools.

Lisa R. Eley, representing *Encore!*, 6 Mars Court, Durham 27703, spoke in support of retaining the *Encore!* program.

Joyce C. Nichols, 2014 Athens Street, Durham 27707, supported cutting DPS administration costs and positions.

Daniel Clever, representing Durham Open Space and Trails (DOST) Commission, 1608 Maryland Avenue, Durham 27705, spoke in support of funding for DOST.

Mary Wakeford, representing the Durham Association of Educators, 1213 Shepherd Street, Durham 27707, supported DPS' proposed budget.

Nancy Cox, 41 Falcon Nest, Durham 27713, opposed budget cuts for Durham Public Schools.

Denise Hester, representing Fayetteville Street Group, 3526 Abercrumby Drive, Durham 27713, urged the Board to delay the approval of its economic development policy.

Beth Livingstone, representing AnimalKind, 1315 Glendale Avenue, Durham 27701, 1) praised the County Manager and staff for their support of AnimalKind's program, The \$20 Fix; 2) commended Minora Sharpe, Budget Analyst, for her exceptional work with the nonprofits; and 3) gave an update on the citizen's match, which would provide a dollar-for-dollar match to the County grant award.

Donald Hughes, PO Box 52598, Durham 27717, supported education but opposed improper use of tax dollars within Durham Public Schools.

Dr. E. Lavonia Allison, representing Durham Committee for the Affairs of Black People, PO Box 428, Durham 27702, opposed teacher position cuts; however, she supported cutting costs with the central administrative office staff.

Moses Darden, representing Teamsters Union, 6317 Angus Drive, Raleigh 27617, supported DPS' proposed budget.

Lois Murphy, 825 Colonial Heights Drive, Durham 27701, opposed DPS' proposed budget.

John Rorem, representing Durham CAN, 2606 Banner Street, Durham 27704, opposed budget cuts for Durham Public Schools. He thanked the County Manager for his budget presentation.

Carolyn P. Harris, representing Durham Committee for the Affairs of Black People, 609 Wheat Mill Road, Durham 27704, opposed cutting teacher positions.

Deborah Williams, representing Durham Committee for the Affairs of Black People, 2317 North Oakridge Blvd., Durham 27707, opposed cutting teacher positions.

Maryann Crea, representing Durham CAN, 4415 Dula Street, Durham 27705, spoke in support of retaining the *Encore!* program.

Natalie Beyer, 2206 Hayfield drive, Durham 27705, supported DPS' proposed budget.

Gina Upchurch, 2013 Woodrow Street, Durham 27705, commended Minora Sharpe, Budget Analyst, for her exceptional work with the nonprofits. She also spoke in support of education as it may be a main component to obtain health insurance.

Chairman Page closed the public hearing and referred the matter back to the Board.

Chairman Page emphasized his support of Durham Public Schools (DPS) and education for Durham youth. He mentioned that County departments were instructed to cut their budgets and that he had not received any emails of complaint. However, Chairman Page expressed disappointment that DPS had not cooperated fully in cutting their budget. Based on citizen comments, an additional \$100,000 could have been cut from DPS' budget to help save *Encore!*. Chairman Page urged DPS to consider additional cuts to preserve teacher positions and essential school programs. He continued to speak to drastic cuts made by County departments and urged citizens to understand the Board's position.

Vice-Chairman Reckhow stated appreciation for the citizens' comments. She informed citizens that the majority of the Schools' budget cuts were made by the State; therefore, she encouraged citizens to relay their budget cut concerns to the State as well. Vice-Chairman Reckhow

mentioned that she had not received answers to questions she submitted to DPS. She echoed Chairman Page's comment about supporting DPS and education.

Commissioner Howerton concurred with Vice-Chairman Reckhow's comments regarding commitment and having unanswered questions related to DPS. She informed citizens that the Board does not have the authority to make decisions about teacher positions.

Commissioner Heron thanked the County Manager and his staff for their diligent work on the budget. She praised the budget presentation as being the best she had ever received. Commissioner Heron spoke to the bond indebtedness and agreed with Commissioner Howerton about teacher positions. She explained that the DPS Board of Education has the authority to hire and fire teachers.

Commissioner Bowser extended thanks to the citizens for their comments and to the County Manager and staff for their hard work on such a difficult budget. He clarified comments made in emails he had received which alluded to the Board's lack of support for DPS. Commissioner Bowser stated that the Board utterly supports DPS; however, DPS is requesting an additional \$2 million, which the Board does not have. He opposed raising taxes to compensate. Commissioner Bowser urged DPS to work with the Board of County Commissioners to compromise on a feasible budget. He noted that earlier in the day, he received information he requested weeks prior to tomorrow's BOCC and DPS meeting. He suggested that when such requests are made by Board members in the future, those requests should be fulfilled in a timely manner.

Chairman Page reiterated thanks to the citizens for attending and for their comments.

Public Hearing—Unified Development Ordinance (UDO) Text Change—Technical Changes V (TC0900003)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board receive public comments on Text Change—Technical Changes V (TC0900003) and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 3, Applications and Permits, Article 4, Zoning Districts, Article 5, Use Regulations, Article 6, District Intensity Standards, Article 7, Design Standards, Article 8, Environmental Protection, Article 9, Landscaping and Buffering, Article 10, Off-Street Parking and Loading, Article 11, Sign Standards, Article 14, Nonconformities, Article 15, Enforcement, and Article 16, Definitions. Mr. Medlin reported that staff has initiated four comprehensive technical change text amendments since the UDO took effect on January 1, 2006. In each case, both governing bodies adopted the proposed amendment. This amendment would continue the practice of making necessary minor technical changes to the UDO. On April 1, 2009, the Joint City-County Planning Committee recommended that staff initiate the amendment. On May 12, 2009, the Planning Commission held a public hearing on the item and voted unanimously to recommend approval with a minor modification.

Commissioner Heron asked Mr. Medlin if citizens are notified of site plan amendments.

Mr. Medlin replied that staff is not required to notify citizens of site plan approvals. However, citizens may request to be notified; the request would be entered into the Land Development Office system.

Commissioner Heron relayed a concern from citizens regarding real estate signs placed along streets.

Mr. Medlin explained the procedure taken to enforce ordinance requirements about signage, including yard sale signs.

Commissioner Heron inquired about filling in flood plains associated with construction.

Commissioner Bowser asked what the difference is between “townhouse” and townhome”.

Mr. Medlin explained that there is no difference; the terms are used interchangeably.

Mr. Medlin clarified for Commissioner Howerton that the public hearing was recommended to be held at the meeting.

Chairman Page opened the public hearing that was properly advertised. As no one signed up to speak, he closed the public hearing and referred the matter back to the Board.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the Unified Development Ordinance (UDO) Text Change—Technical Changes V (TC0900003).

The motion carried unanimously.

AN ORDINANCE TO AMEND VARIOUS PROVISIONS OF THE UNIFIED
DEVELOPMENT ORDINANCE (TC0900003)

WHEREAS, the Durham County Board of Commissioners wishes to amend certain provisions in the Unified Development Ordinance by making minor technical revisions; and

WHEREAS, it is the objective of the Durham County Board of Commissioners to have the UDO promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

NOW, THEREFORE, be it ordained that Article 3, Applications and Permits, Article 4, Zoning Districts, Article 5, Use Regulations, Article 6, District Intensity Standards, Article 7, Design Standards, Article 8, Environmental Protection, Article 9, Landscaping and Buffering, Article 10, Off-Street Parking and Loading, Article 11, Sign Standards, Article 14, Nonconformities, Article 15, Enforcement, and Article 16, Definitions, of the Unified Development Ordinance are amended to make the following changes:

SECTION 1

[Clarify that infill development standards are mandatory where applicable.]

Modify Sec. 3.7, Site Plan Review, paragraph 3.7.8, Site Plan Review Criteria, paragraph C as set forth in the strikeouts and underlining below.

Sec. 3.7 Site Plan Review

3.7.8 Site Plan Review Criteria

[Paragraphs A, B, and D-J are omitted.]

- C. The site plan displays a site design and development intensity appropriate for and tailored to the unique natural characteristics of the site; considering factors such as the location of significant wooded areas, specimen trees, wetlands, steep slopes, Durham Natural Inventory sites, and floodplains and, if the project is not subject to the provisions of Sec. 6.8, Infill Development in Residential Districts, the orientation of proposed buildings in order to maximize solar exposure.

SECTION 2

[Clarify that a site plan amendment request must identify the elements for which approval is sought.]

Modify Sec. 3.7, Site Plan Review, paragraph 3.7.14, Site Plan Amendments, as set forth in the ~~strikeout~~ and underlining below.

Sec. 3.7 Site Plan Review

3.7.14 Site Plan Amendments

- A. Minor changes to the approved site plan, such as those resulting from field conditions or which result in an equivalent or better performance may be approved by the Planning Director or designee in conjunction with the Inspections Director or designee.
- B. Significant changes to the approved site plan, as determined by the Planning Director or designee shall be resubmitted for approval. ~~Site P~~Plans resubmitted for approval are processed as if they were a new application.
- C. A site plan amendment request shall clearly identify the elements for which approval is sought in both text and graphic form. Only those elements so identified shall be reviewed and considered for approval. If any element of an approved plan is changed but not identified, the amendment request shall be denied in its entirety or, if already approved, the amendment shall be deemed null and void in its entirety.

SECTION 3

[Resolve a conflict between Sec. 4.1.1, Establishment of Districts, and Sec. 6.10.1D, Compact Neighborhood Tier and Downtown Tier, by clarifying that CN is an allowable zoning district in the Compact Neighborhood Tier.]

Modify Sec. 4.1, General, paragraph 4.1.1, Establishment of Districts, as set forth in the ~~strikeouts~~ and underlining below.

Sec. 4.1 General

4.1.1 Establishment of Districts

- A. The following zoning districts are hereby established, and are intended to implement the Comprehensive Plan. Each district is only appropriate in development tiers where it effectively implements the plan, as set forth below.

		Development Tier					
Symbol	District	Rural	Suburban	Urban	Compact Neighborhood	Downtown	
Residential Districts							
RR	Residential Rural	✓	✓				<i>Former Districts</i> RD

		Development Tier					
Symbol	District	Rural	Suburban	Urban	Compact Neighborhood	Downtown	
RS-20	Residential Suburban – 20	✓ ¹	✓				<i>Former Districts</i> R-20
RS-10	Residential Suburban – 10		✓				R-10, R-15
RS-8	Residential Suburban – 8		✓				R-8
RS-M	Residential Suburban Multifamily		✓				RM-8, RM-12, RM-16
RU-5	Residential Urban – 5			✓	✓ ³	✓ ³	R-5
RU-5(2)	Residential Urban – 5 (2) (duplexes allowed)			✓	✓ ³	✓ ³	R-3
RU-M	Residential Urban Multifamily			✓	✓ ³	✓ ³	RM-16, RM-20
RC	Residential Compact		✓ ²		✓	✓	ITOD-CN, RM-CN
Nonresidential Districts							
CN	Commercial Neighborhood	✓	✓	✓	✓		NC
OI	Office and Institutional	✓	✓	✓	✓	✓	O&I-1, O&I-2
CG	Commercial General	✓	✓	✓	✓	✓	GC
CBD	Central Business District					✓	CBD
SRP	Science Research Park		✓				RSCH, RAD
IL	Industrial Light		✓	✓	✓	✓	I-2, CT
I	Industrial	✓	✓	✓			I-3
Planned Districts							
PDR	Planned Development Residential		✓	✓			PDR
UC	University and College		✓	✓	✓		UC
CC	Commercial Center		✓	✓			SC
IP	Industrial Park		✓	✓			I-1
MU	Mixed Use		✓	✓	✓	✓	MU
Overlays							
-P	Neighborhood Protection Overlay	✓	✓	✓	✓	✓	-- NEW --
-TO	Transitional Office Overlay		✓	✓			-- NEW --
-A60	Airport Overlay	✓	✓				60 to 65 LDN
-A65							Above 65 LDN
-DDO	Downtown Design Overlay					✓	Downtown Design Overlay
-MTC	Major Transportation Corridor Overlay		✓	✓	✓		MTC, I-540
-H	Historic Districts & Landmarks Overlay	✓	✓	✓	✓	✓	Historic District Overlay
M/LR-A, -B	Watershed Protection Overlays						M/LR-A, -B
F/J-A, -B	Lake Michie/Little River District	✓	✓				F/J-A, -B
E-A, -B	Falls/Jordan District	✓	✓	✓			E-A, -B
	Eno River District	✓	✓	✓			

¹ Within Rural Villages as designated in the Comprehensive Plan only

² Within Suburban Transit Areas as designated in the Comprehensive Plan only, using Support Area standards as defined in Sec. 6.5, Residential Compact (RC) Development Intensity.

³ Applying the infill standards of Sec. 6.8, Infill Development in Residential Districts, only.

[Paragraph B is omitted.]

SECTION 4

[Clarify that Sec. 4.9.4 applies to freestanding signs to correct an omission in transitioning from the old Zoning Ordinance to the UDO. Article 11, Sign Standards, regulates non-freestanding signs in the MTC, for instance signs located on buildings.]

Modify Sec. 4.9, Major Transportation Corridor Overlay (-MTC), paragraph 4.9.4, Signs, as set forth in the underlining below.

- Sec. 4.9 Major Transportation Corridor Overlay (-MTC)
 4.9.4 Freestanding Signs
 Freestanding signs within the MTC Overlay shall not exceed 12 feet in height.

SECTION 5

[Allow public and civic uses in the F/J A Overlay in accordance with the original intent of the ordinance to prohibit heavy industrial. There is no basis for distinguishing between public and civic uses, which include churches, and other uses currently permitted, such as office, commercial, and light industrial.]

Modify Sec. 4.11, Watershed Protection Overlay, paragraph 4.11.4, Nonresidential Land Use Restrictions, as set forth in the strikeouts and underlining below.

- Sec. 4.11 Watershed Protection Overlay
 4.11.4 Nonresidential Land Use Restrictions
 Nonresidential land uses shall be restricted in accordance with the following table and Sec. 8.7, Watershed Protection Overlay Standards.

Overlay	Development Restrictions
M/LR-A	All industrial uses listed in Sec. 5.2.7, Industrial Use Categories, and the sale of fuel for motor vehicles shall be prohibited.
M/LR-B	All Industrial uses listed in Sec. 5.2.7, Industrial Use Categories, shall be prohibited.
F/J-A	Except in the Rural Tier, nonresidential uses shall be prohibited, except that public and civic uses listed in Sec. 5.2.4, Public and Civic Use Categories, commercial uses listed in Sec. 5.2.5, Commercial Use Categories, office uses listed in Sec. 5.2.6, Office Use Categories, and light industrial uses listed in Sec. 5.2.7A, Light Industrial Service, shall be permitted on land zoned for such uses (see Sec. 5.1, Use Table) as of September 28, 1992, provided that they do not manufacture, distribute or warehouse for distribution nuclear materials or substantial quantities of hazardous materials. Such uses may be permitted to store for on-site use or produce as a waste product nuclear materials or substantial quantities of hazardous materials, subject to the requirements of Sec. 8.7.2G, Hazardous and Nuclear Materials, provided that they maintain a 1000-foot natural vegetated buffer from the normal pool of the reservoir except when located in a special flood hazard area. Land already zoned for one of the above uses may be rezoned to permit one of the above nonresidential uses, except for commercial uses, in accordance with the procedures of Sec. 3.5, Zoning Map Change. Within the Rural Tier, nonresidential uses shall be prohibited except that uses allowed in the CN District may be permitted. The sale of fuel for motor vehicles shall be prohibited.
F/J-B	Municipal solid waste landfill facilities that are constructed and operated in accordance with N.C. Administrative Code Title 15.A.13.B. Sec. 1600 shall be permitted except when located in a special flood hazard area. Within the Rural Tier, commercial uses listed in Sec. 5.2.5, Commercial Use Categories, office uses listed in Sec. 5.2.6, Office Use Categories and industrial uses listed in Sec. 5.2.7, Industrial Use Categories, that manufacture, distribute, warehouse for distribution, store for on-site use, or produce as a waste product nuclear material or substantial quantities of hazardous materials (except when located in a special flood hazard area) shall be subject to the requirements of Sec. 8.7, Watershed Protection Overlay Standards.
E-A	Industrial uses listed in Sec. 5.2.7, Industrial Use Categories, shall be prohibited. The sale of fuel for motor vehicles shall be prohibited.
E-B	Within the Rural Tier, commercial uses listed in Sec. 5.2.5, Commercial Use Categories, office uses listed in Sec. 5.2.6, Office Use Categories, and industrial uses listed in Sec. 5.2.7, Industrial Use Categories, that manufacture, distribute, warehouse for distribution, store for on-site use, or produce as a waste product nuclear material or substantial quantities of hazardous materials (except when located in a special flood hazard area) shall be subject to the requirements of Sec. 8.7, Watershed Protection Overlay Standards.

SECTION 6

[Require a minor special use permit for group homes and congregate living facilities in RS-M and RU-M to align with the requirements for other residential districts. There is no basis for distinguishing between the uses or districts.]

Modify Sec. 5.1, Use Table, paragraph 5.1.2, Use Table, as set forth in the underlining below.

Sec. 5.1 Use Table

5.1.2 Use Table

		RESIDENTIAL					NONRESIDENTIAL					PLANNED					OVERLAY							
Use Category	Specific Use	RR	RS	RS-M	RU	RU-M	RC	NC	O	I	CG	CD	DB	SR	PL	I	PD	UR	UC	CC	IP	MU	DDO ¹	Notes
KEY: "P" = Permitted "L" = Limited "M" = Major Special Use Permit "m" = Minor Special Use Permit "‡" = Development Plan Required Blank cell = not allowed																								
RESIDENTIAL USES																								
Group Living	All group living, except as listed below			m	M	M	m	m		m	m						‡					‡	m	
	Commercial Dorm			L/m	L/m	L/m	L/m	L/m		L/m									‡L				L	5.3.2 A
	Congregate Living Facility			L/m	L/m	L/m	L/m	L	L	L	L							‡L				‡L	L	5.3.2 B
	Group Home		L/m	L/m	L/m	L/m	L	L	L	L	L							‡L				‡L	L	5.3.2 C

SECTION 7

[Require a minor special use permit for conference centers in RR to align with the requirements for other uses of similar intensity such as places of worship, clubs and uses, day care facilities, and bed and breakfasts.]

Modify Sec. 5.1, Use Table, paragraph 5.1.2, Use Table, as set forth in the underlining below.

Sec. 5.1 Use Table

5.1.2 Use Table

		RESIDENTIAL					NONRESIDENTIAL					PLANNED					OVERLAY								
Use Category	Specific Use	RR	RS	RS-M	RU	RU-M	RC	NC	O	I	CG	CD	DB	SR	PL	I	PD	UR	UC	CC	IP	MU	DDO ¹	Notes	
KEY: "P" = Permitted "L" = Limited "M" = Major Special Use Permit "m" = Minor Special Use Permit "‡" = Development Plan Required Blank cell = not allowed																									
OFFICE																									
Office	All offices, except those listed below						P	P	P	P	P	P	P	P	P						‡	‡	‡	P	
	Conference center, retreat house	L/m						L	L	L	L	L	L	L	L						‡L	‡L	‡L	L	5.3.5A
	Drive-through facilities						L	L	L	L	L	L	L	L	L						‡L	‡L	‡L		5.3.4I

SECTION 8

[Clarify that agriculture in the County is regulated by state statute rather than UDO provisions.]

Modify Sec. 5.3, Limited Use Standards, paragraph 5.3.1, Agricultural Use Standards (City Only) including paragraphs A, B, and new paragraph C, as set forth in the strikeouts and underlining below.

Sec. 5.3 Limited Use Standards

5.3.1 Agricultural Use Standards

A. Agricultural Uses (City Only)

Agricultural uses in the City shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following standards:

1. In the RS District, agricultural uses shall only be permitted in the RS-20 District.
- B. Forestry (City Only)
Forestry activities in the City shall be conducted in conformance with a Forest Management Plan which uses the current best management practices set out in "Forest Practice Guidelines Related to Water Quality," as adopted by the North Carolina Department of Environment and Natural Resources.
- C. Agricultural Uses (County Only)
Agricultural uses in the County shall be permitted in accordance with state statute.

SECTION 9

[Clarify that Sec. 5.4.1 applies to accessory structures not including dwellings. Clarify that accessory structures on a lot at least 2 acres in size may be located in front but not in the required front yard to correct an omission made in transitioning from the old Zoning Ordinance to the UDO.]

Modify Sec. 5.4, Accessory Uses and Structures, paragraph 5.4.1, In General, as set forth in the strikeouts and underlining below.

Sec. 5.4 Accessory Uses and Structures

5.4.1 Accessory Structures

Accessory structures, not including accessory dwellings (see Sec. 5.4.2, Accessory Dwellings), shall be subject to the following additional requirements:
[Paragraphs A and C-E are omitted.]

- B. The structure shall be located to the rear of the primary structure, except that accessory structures in the RU and RC Districts may be located within side yards but shall be no closer than three feet to any property line, and a structure on a lot at least two acres in size in the RR District may be located in front or to the side of the primary structure provided it is not located in the street or side yard. Any accessory structures located less than five feet from the property line shall construct a wall meeting North Carolina Building Code Standards for fire obstruction on that side of the structure facing the property line.

SECTION 10

[Clarify and update language regarding portable on-site storage.]

Modify Sec. 5.5, Temporary Uses, paragraph 5.5.2, Specific Temporary Uses, paragraph I, Portable On-Site Storage, paragraph 1, General, paragraph c, as set forth in the strikeouts and underlining below.

Sec. 5.5 Temporary Uses

5.5.2 Specific Temporary Uses

[Paragraphs A-H and J-N are omitted.]

I. Portable On-Site Storage

1. General

[Paragraphs a and b are omitted.]

- c. Except as authorized under Sec. I.1.b above, a portable on-site storage unit shall require a temporary use permit under Sec. 3.12, Temporary Use Permit, if it is located on a residential property for more than 30 days.

SECTION 11

[Clarify references to Inventory sites and allow for updating them as necessary from the North Carolina Heritage Program.]

Modify Sec. 6.2, Residential Rural (RR) Development Intensity, paragraph 6.2.4, Conservation Subdivision, paragraph H, Primary Conservation Areas and Other Open Space, paragraph 1 Primary Conservation Areas, paragraph h; Sec. 8.10, Durham Inventory Site Protection Standards; and Sec. 16.3, Defined Terms, as set forth in the strikeouts and underlining below.

Sec. 6.2 Residential Rural (RR) Development Intensity
 6.2.4 Conservation Subdivision

[Paragraphs A-G are omitted.]

H. Primary and Secondary Conservation Areas and Other Open Space

1. Primary Conservation Areas

[Introductory paragraphs and paragraphs a-f and i-n are omitted.]

g. Wildlife corridors, wildlife habitats, and other sites identified in the Durham County Inventory of Important Natural Areas, Plants and Wildlife (Inventory) or adopted plans;

[Paragraphs 2 and 3 are omitted.]

Sec. 8.10 Durham Inventory Site Protection Standards

Sites listed in the Durham County Inventory of Important Natural Areas, Plants and Wildlife, which in the case of a conflict may be superseded or supplemented by more current information from the North Carolina Heritage Program as determined by the Planning Director, are protected through a series of development standards, including, but not limited to:

[Paragraphs A-E are omitted.]

Sec. 16.3 Defined Terms

Durham Inventory, Natural Inventory, or Inventory: The Durham County Inventory of Important Natural Areas, Plants and Wildlife, which in the case of a conflict may be superseded or supplemented by more current information from the North Carolina Heritage Program as determined by the Planning Director. The Durham Inventory does not include the Durham Architectural and Historic Inventory; the Durham County Archaeological Inventory; the Durham County Inventory of Cultural and Natural Resources; or the Durham County and Durham ETA Inventories of Historic Sites, which are referenced separately in the Ordinance.

Inventory: See Durham Inventory.

Natural Inventory: See Durham Inventory.

SECTION 12

[Clarify that maximum residential density does not apply to plats that are exempt from subdivision requirements under Sec. 3.6.2, Actions Exempt from Subdivision Requirements.]

Modify Sec. 6.3, Residential Suburban (RS) Development Intensity, paragraph 6.3.1, Development Standards, paragraph A, Dimensional Standards, as set forth in the underlining below.

Sec. 6.3 Residential Suburban (RS) Development Intensity

6.3.1 Development Standards

A. Dimensional Standards

All residential development in the RS Districts shall meet the standards in the table below. For illustrations, lot dimensions and required yards for each housing type, see Sec. 7.1, Housing Types.

	RS-20		RS-10		RS-8		RS-M	
Dimensional Standard	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
Residential Density (units per acre)	---	2.0 ¹	---	3.5 ¹	---	5.0 ¹	---	10.5 ^{1,2}

Open Space(% of gross area) ³								
Conventional Subdivision	---	---	15	---	15	---	18 ⁵	---
Cluster Subdivision	---	---	15 ⁴	---	15 ⁴	---	18 ⁵	---
Useable Open Space	---	---	5	---	5	---	6	---
Site Area (acres)								
Conventional Subdivision	---	---	---	---	---	---	---	---
Cluster Subdivision	4	---	4	---	4	---	---	---
Site Width (feet)	---	---	---	---	---	---	200	---
Lot Area (square feet)								
Conventional Single-Family Detached	20,000 ⁶	---	10,000 ⁶	---	8,000 ⁶	---	5,000 ⁶	---
Other Housing Types	See Sec. 7.1, Housing Types							
Height (feet)	---	35'	---	35'	---	35'	---	35 ⁸

¹ This maximum does not apply to actions listed under Sec. 3.6.2, Actions Exempt from Subdivision Requirements. Where this maximum does apply, density may be increased in accordance with Sec. 6.3.3B, RS-M District Major Roadway Density Bonus, or Sec. 6.6, Affordable Housing Density Bonus. Other than these options the maximum density shown cannot be exceeded even though the use of an alternative housing type may impose smaller lot requirements.

² Projects proposing densities greater than eight units per acre shall require the approval of a development plan meeting the requirements of Sec. 3.5.6, Development Plan.

³ Please see Sec. 12.5, Recreation Land, for additional land dedication requirements that may apply.

⁴ Minimum open space; cluster lot size reduction would be added to this percentage.

⁵ These open space requirements also apply to the development standards for apartments.

⁶ Lot area may be reduced in accordance with Sec. 6.3.3C, Lot Averaging.

⁷ Additional height may be permitted at a rate of one additional foot for every one foot of additional setback provided; however, in no event shall the additional height be more than 10 feet.

⁸ Additional height may be permitted at a rate of one additional foot for every one foot of additional setback provided, if shown on a development plan meeting the requirements of Sec. 3.5.6, Development Plan.

[Paragraph B is omitted.]

SECTION 13

[Create consistency with definition of Townhouse in 16.3 by changing “townhome” to “townhouse” where necessary throughout the UDO.]

Modify Section 6.4, Residential Urban (RU) Development Intensity, paragraph 6.4.3, Residential Density, paragraphs B and D; and Section 8.7, Watershed Protection Overlay Standards, paragraph 8.7.2, General Requirements, paragraph D.4, as set forth in the strikeouts and underlining below.

Sec. 6.4 Residential Urban (RU) Development Intensity

6.4.3 Residential Density

[Paragraphs A and C are omitted.]

B. Thoroughfare Density Bonus

Projects located along major or minor thoroughfares with rights-of-way greater than 50 feet in width may develop as townhouses, using the dimensional provisions of Sec. 7.1.8, Townhouse, so long as the average width of the townhouse lots is at least 20 feet. Projects developed utilizing this option shall meet all of the requirements of Sec. 6.8, Infill Development in Residential Districts, where applicable, except that the requirements regarding minimum lot width established in Sec. 6.8.2, Lot Width, shall not apply.

D. Townhouse Transitional Use

Sites located immediately between non-residential and single-family residential uses may develop as townhouses, using the dimensional provisions of Sec. 7.1.8, Townhouse, to serve as a transitional use. Projects developed utilizing this option shall meet all of the requirements of Sec. 6.8, Infill Development in Residential Districts, where applicable, except that the requirements regarding minimum lot width established in Sec. 6.8.2, Lot Width, shall not apply.

Sec. 8.7 Watershed Protection Overlay Standards

8.7.2 General Requirements

[Paragraphs A-C and E-G are omitted.]

D. Ownership, Design and Maintenance of Engineered Stormwater Controls

4. No certificate of compliance shall be issued for any structure constructed within a site proposed for development, other than as allowed below, until the City Public Works Director or County Engineer, or their designees, as appropriate, has approved construction of the engineered stormwater controls and after review and approval of submitted "as-built" drawings. Notwithstanding this requirement, the Stormwater Division of the City may allow for delay in approval of construction stormwater controls and submission and approval of as-built drawings for single family housing, duplexes, and townhouses in accordance with adopted policies of the City.

SECTION 14

[Clarify that Parks and Open Areas and Utilities are exempt from the residential district open space requirements. Clarify that the useable open space requirement does not apply to nonresidential development in residential districts.]

Modify Sec. 6.9, Nonresidential Development in Residential Districts, paragraph 6.9.1, Dimensional Standards, paragraph A, and Sec. 7.2, Open Space, paragraph 7.2.5, Useable Open Space Design, paragraph A, General, as set forth in the strikeouts and underlining below:

Sec. 6.9 Nonresidential Development in Residential Districts

6.9.1 Dimensional Standards

- A. Nonresidential development in residential districts shall comply with the dimensional standards in the following table:

Development Standard	RURAL		SUBURBAN		URBAN		COMPACT	
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
Lot Area (square feet)	3 ac.	---	15,000	---	5,000	---	5,000	---
Lot Width (feet)	100	---	90	--	50	---	50	---
Open Space (% of gross area) ^{1,2}	---	---	10	---	3	---	---	---
Downtown	---	---	---	---	---	---	1.0	---
Core Area	---	---	---	---	---	---	1.0	---
Support Area	---	---	---	---	---	---	3.0	---
Street Yard (feet)	50	---	25	---	---	---	---	---
Build-To Line								
Feet from ROW	---	---	---	---		20 ³		15 ³
% of Frontage	---	---	---	---	60	---	80	---
Side Yard (feet)								
Min Each Side	12	---	10	---	6	---	0	---
Min Both Sides (total)	30	---	24	---	15	---	0	---
Rear Yard (feet)	25	---	25	---	25	---	25	---
Building Coverage (%)	--	9 ⁴	---	60 ⁴	---	70 ⁴	---	70 ⁴
Height (feet)	---	45	---	45	---	45	---	45

¹ Principal uses listed in Sec. 5.2.4F, Parks and Open Areas, and Sec. 5.2.4J, Utilities, are exempt from this open space requirement.

² Usable open space is not required for nonresidential development in residential districts.

³ Build-to line may be modified subject to Sec. 6.8.3A, Street Yards.

⁴ May be further restricted by watershed regulations in accordance with Sec. 8.7.2B, Impervious Surface Limits.

[Paragraphs B and C are omitted.]

Sec. 7.2 Open Space

7.2.5 Useable Open Space Design

A. General

Useable open space shall constitute at least one-third of the required open space, except in the Rural Tier and for nonresidential development in residential districts, where no useable open space shall be required. Areas designated as useable open space, other than walking paths and bicycle trails, shall have at least one side with street frontage of at least 50 feet in length, and shall be accessible to residential development by sidewalks, pursuant to Article 12, Infrastructure and Public Improvement.

[Paragraphs B and C are omitted.]

SECTION 15

[Revise to accord with Sec. 6.2, Residential Rural (RR) Development Intensity, to provide consistent treatment of development in the Villages of Bahama and Rougemont.]

Modify Sec. 6.9, Nonresidential Development in Residential Districts, paragraph 6.9.1, Dimensional Standards, paragraph B, and Sec. 6.10, Nonresidential District Development Intensity, adding new paragraph B.1, as set forth in the underlining below.

Sec. 6.9 Nonresidential Development in Residential Districts

6.9.1 Dimensional Standards

[Paragraphs A and C are omitted.]

B. Development in the Rural Villages of Bahama and Rougemont as designated in the Comprehensive Plan may use the Suburban Tier dimensional standards subject to Sec. 8.4, Floodplain and Flood Damage Protection Standards, Sec. 8.7, Watershed Protection Overlay Standards, and the availability of water and wastewater treatment systems.

Sec. 6.10 Nonresidential District Development Intensity

6.10.1 Nonresidential Development Standards

[Paragraphs A, B aside from the new paragraph B.1 to be inserted at the end of the paragraph, and C-E are omitted.]

B. 1. Development in the Rural Villages of Bahama and Rougemont as designated in the Comprehensive Plan may use the Suburban Tier dimensional standards subject to Sec. 8.4, Floodplain and Flood Damage Protection Standards, Sec. 8.7, Watershed Protection Overlay Standards, and the availability of water and wastewater treatment systems.

SECTION 16

[Clarify that residential density options established in Sec. 6.4, Residential Urban (RU) Development Intensity, also apply to residential development in non-residential districts in the Urban Tier.]

Modify Sec. 6.10, Nonresidential District Development Intensity, paragraph 6.10.2, Residential Development in Nonresidential Districts, paragraph B, Residential Density, as set forth in the underlining below.

Sec. 6.10 Nonresidential District Development Intensity

6.10.2 Residential Development in Nonresidential Districts

[Paragraphs A and C are omitted.]

B. Residential Density

The residential density shall be based only on that portion of the tract dedicated to the residential use and the maximum residential density (shown as units per acre) allowed shall be as shown in the table below:

District	Rural	Suburban	Urban	Compact	Downtown
CN	0.2	8.7 ¹	10.5 ^{1,2}	14 ¹	100, unless higher densities are authorized pursuant to Sec. 4.8.6
OI	---	10.5 ¹	14 ^{1,2}	17.5 ¹	
CG	0.2	10.5 ¹	14 ^{1,2}	17.5 ¹	
CBD	---	---	---	---	

¹ Density may be increased through use of the Sec. 6.6, Affordable Housing Density Bonus.

² Density may be increased through use of the options available under Sec. 6.4.3, Residential Density.

Commentary: The minimum lot size for residential units must conform to the smallest lot size allowed for the units of the type proposed within the Tier pursuant to Sec. 7.1.

SECTION 17

[Revise for consistency with paragraph 6.11.5C., Transitional Use Area, and clarify that structures rather than all development need to meet the street yard requirement.]

Modify Section 6.11, Planned Districts, paragraph 6.11.5, Commercial Center (CC), paragraph I, Yards, as set forth in the strikeout and underlining below.

Sec. 6.11 Planned Districts

6.11.5 Commercial Center (CC)

[Paragraphs A-H and J are omitted.]

I. Yards

All structures shall maintain a street yard of 50 feet, except as otherwise permitted under paragraph C above.

SECTION 18

[Clarify that outdoor display may only occur pursuant to an approved site plan and prohibits outdoor display in the public right-of-way.]

Modify Sec. 7.5, Outdoor Display and Storage, paragraph 7.5.2, Outdoor Display, paragraphs A and B, as set forth in the strikeouts and underlining below.

Sec. 7.5 Outdoor Display and Storage

7.5.2 Outdoor Display

A. Outdoor display is defined as the display of products actively available for sale, but does not include products in closed boxes, crates, other kinds of shipping containers, or uses considered outdoor storage in accordance with Sec. 7.5.3, Outdoor Storage, below.

B. Outdoor display shall be prohibited except that it shall be permitted in association with any nonresidential use following approval of a site plan illustrating the extent of the permitted area for outdoor display by the Development Review Board or governing body, as appropriate, provided it meets the standards below.

1. All products displayed shall be located outdoors only during the hours the use is open for business.

2. All products displayed outdoors shall be in conformance with ~~the~~ approved site plan and:

a. Shall be located no closer than five feet from any public entrance;

b. Shall extend no more than eight feet from the exterior wall of such use, unless an approved site plan shows an area greater than eight feet;

- c. Shall occupy no more than 50% of building frontage;
- d. Shall not block sidewalks or parking areas, and shall not impede pedestrian or vehicular circulation; and
- e. Shall not be located in a public right-of-way except in the Downtown Tier, subject to other applicable requirements.

SECTION 19

[Add the City as a possible recipient of a conservation easement and reference the County acceptance criteria document to be utilized by the City or County.]

Modify Sec. 8.7, Watershed Protection Overlay Standards, paragraph 8.7.2, General Requirements, paragraph B, Impervious Surface Limits, paragraph 2, as set forth in the underlining below.

Sec. 8.7 Watershed Protection Overlay Standards

8.7.2 General Requirements

[Paragraphs A and C-G are omitted.]

B. Impervious Surface Limits

[Paragraph 1 is omitted.]

- 2. The impervious surface limit provisions of this section may be exceeded through an impervious surface credit transfer. Credit for the impervious surfaces allowed on one or more parcels ("donor parcels") may be transferred to non-contiguous parcels ("receiving parcels"), such that the amount of impervious surface available for a development project would be the total of what is normally allowed on the receiving parcel plus what is transferred from the donor parcel(s). Impervious surface credit transfer is subject to the following provisions:
 - a. The donor parcel and receiving parcel shall be located within the same water supply watershed.
 - b. The impervious surface credit transfer shall not be from a donor parcel in Area B to any receiving parcel in Area A.
 - c. The portion of the donor parcel which is restricted from development as part of the impervious surface credit transfer shall remain in a vegetated or natural state or used for crop production or pasture provided that best management practices (BMPs) as developed by the Soil and Water Conservation District are utilized. The portion of the donor site restricted from development shall be protected from all future development through use of a permanent conservation easement in favor of either:
 - 1. Durham County or the City of Durham; or
 - 2. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements (the organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer to the County or City, as appropriate, in the event the organization becomes unable to carry out its functions). If the entity accepting the easement is not the County or City, then a third right of enforcement favoring the County or City, as appropriate, shall be included in the easement.

- d. The impervious surface credit transfer shall be reviewed and approved through use of the site plan process pursuant to Sec. 3.7, Site Plan Review.
- e. The donor parcel shall be deemed appropriate for acceptance by the County or City, as appropriate, under the Durham County Review Criteria for Acceptance of Conservation Easements for Impervious Surface Transfer.

SECTION 20

[Revise City language to accord with County language approved after City approval of TC07-21, Stormwater. Only City approval necessary.]

Modify Sec. 8.7, Watershed Protection Overlay Standards, paragraph 8.7.2, General Requirements, paragraph D, Ownership, Design and Maintenance of Engineered Stormwater Controls, paragraph 3, as set forth in the strikeouts and underlining below.

Sec. 8.7 Watershed Protection Overlay Standards

8.7.2 General Requirements

[Paragraphs A-C and E-G are omitted.]

D. Ownership, Design and Maintenance of Engineered Stormwater Control

[Paragraphs 1, 2, and 4 are omitted.]

3. Except as allowed in paragraph c below, no building permit shall be issued for a site proposed for development, until:

- a. The City Public Works Director or County Engineer, or their designees, as appropriate, has approved plans and specifications for the proposed engineered stormwater controls and the property owner has entered into an Agreement and Covenants or Operation and Maintenance Agreement with the City or County, as appropriate, in accordance with the terms established by either the City Public Works Director or County Engineer, or their designees, as appropriate; and
- b. The property owner has posted a performance bond, other surety instrument, or other payment satisfactory to the City or County, as appropriate, in an amount determined by the City Public Works Director or County Engineer, or their designees, as appropriate to assure construction, maintenance, repair, and/or reconstruction necessary for adequate performance of the engineered stormwater controls.
- c. For office, institutional, commercial, industrial and multi-family projects, building permits may be issued but construction drawing approval or water or sewer permit approval shall be withheld until compliance with paragraphs a and b above.

The Agreement and Covenants or Operation and Maintenance Agreement required under paragraph a. above may be required prior to site plan or preliminary plat approval.

SECTION 21

[Clarify project boundary buffer standards.]

Modify Sec. 9.4, Project Boundary Buffers, paragraph 9.4.3, Standards, paragraph A, Opacity, paragraph 3, and paragraph B, Project Boundary Buffer Table, paragraph 2, as set forth in the strikeouts and underlining below.

Sec. 9.4 Project Boundary Buffers
9.4.3 Standards

- A. Opacity
[Paragraphs 1 and 2 are omitted.]
- B. Project Boundary Buffer Table
[Table and paragraphs 1, 3, and 4 are omitted.]
 - 2. Non-residential development proposed in a residential district to be adjacent to residential districts or residential developments (except for upper story residential or with any intervening street or railroad right-of-way) on other properties, that would not otherwise require a buffer, shall provide buffers in accordance with the provisions of the CN District in determining buffer requirements. Principal uses listed in Sec. 5.2.4F, Parks and Open Areas, except playgrounds and zoos, are exempt from this requirement.

SECTION 22

[Create consistency with approval authority for other landscape variations in Article 9, Landscaping and Buffering. There is no distinguishing reason to require DRB approval.]
Modify Section 9.6, Street Trees, paragraph 9.6.2, Required Street Trees, paragraph B, as set forth in the strikeouts and below.

Sec. 9.6 Street Trees
9.6.2 Required Street Trees

- [Paragraphs A and C are omitted.]
- B. The location of street trees may be varied, as long as there is a minimum of one tree every 100 feet of street frontage, unless the Planning Director or designee approves an alternate pattern to allow design flexibility for location of access points, sight clearance, or other similar factors.

SECTION 23

[Create necessary cross-references and eliminate conflicts in screening standards.]
Modify Sec. 9.7, Screening, paragraph 9.7.2, Standards, including paragraph A, as set forth in the strikeouts and underlining below.

Sec. 9.7 Screening
9.7.2 Standards

- Features and uses specified above, shall provide a visual obstruction from adjacent properties and as otherwise required under Sec. 7.6.3, Screening, and Sec. 10.7.7, Landscaping and Screening Requirements in conformance with the following standards:
- A. Except as otherwise required under Sec. 7.6.3, Screening, the screen may be composed of view-obscuring vegetation used individually, or in combination with a wall, semi-opaque fence, or berm. The screen height shall be eight feet from the ground, except that utilities and trash handling facilities shall be screened to the height of the facilities plus six inches.

[Paragraphs B-D are omitted.]

SECTION 24

[Clarify which side of a fence is unfinished.]
Modify Sec. 9.9, Fences and Walls, paragraph 9.9.2, Fences, paragraph A, as set forth in the underlining below.

Sec. 9.9 Fences and Walls
9.9.2 Fences

- A. A finished side of all fences shall face off site. If support posts are located or visible on one side only, that side shall be deemed the unfinished side.

SECTION 25

[Clarify language regarding alternative parking plan requirements.]

Modify Sec. 10.5, Alternative Parking Plans, paragraph 10.5.1, General, and paragraph 10.5.2, Factors Considered in Alternative Parking Plans, as set forth in the strike-outs and underlining below.

Sec. 10.5 Alternative Parking Plans

The Development Review Board may reduce the minimum amount of off-street parking spaces required beyond the 20% reduction permitted by Sec. 10.3.1D, Modifications, where developer-submitted parking data, prepared and sealed by a registered engineer with transportation expertise, illustrates that the requirements of this Article should be reduced for the specific development, provided that the reduction satisfies the intent of this Article. The data submitted for an alternative parking plan shall include, at a minimum, the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses. The following factors may also be considered.

10.5.1 Additional Factors Considered in Alternative Parking Plans

[Paragraphs A-D are omitted.]

SECTION 26

[Clarify that DRB approval is not necessary for additional freestanding signs where the development already has an approved common signage plan.]

Modify Sec. 11.6, Signs Requiring Permits, paragraph 11.6.2, Standards for Freestanding Signs, paragraph A, Nonresidential Districts and Uses, paragraph 2, Number, as set forth in the strike-outs and underlining below.

Sec. 11.6 Signs Requiring Permits

11.6.2 Standards for Freestanding Signs

- A. Nonresidential Districts and Uses

[Paragraphs 1 and 3-7 are omitted.]

2. Number

- a. One freestanding sign shall be permitted on each street on which the property fronts.
- b. Additional signs may be allowed in a development with an approved common signage plan, or as approved by the Development Review Board if no approved common signage plan exists, for a street frontage that exceeds 300 feet. If multiple signs are placed on a single street frontage, no individual sign shall exceed 80 square feet in area and there shall be a minimum of 150 feet between the signs.

[Paragraph B is omitted.]

SECTION 27

[Clarify that nonconforming uses may not be reestablished if truly abandoned for a period of six months, rather than just temporarily discontinued.]

Modify Sec. 14.2, Nonconforming Uses, paragraph 14.2.3, Discontinuance, including paragraphs B and C, as set forth in the strikeouts and underlining below.

Sec. 14.2 Nonconforming Uses

14.2.3 Abandonment

[Paragraphs A and D are omitted.]

- B. A use that utilizes a structure and is abandoned for a period of at least six consecutive months, as evidenced by termination of utilities, declaration of inhabitability, or other action that the Planning Director or designee deems an indication of abandonment.
- C. A use that is conducted outside of a structure and is abandoned for a period of at least 30 days as evidenced by removal of equipment or other action that the Planning Director or designee deems an indication of abandonment.

SECTION 28

[Clarify that a historic structure must be a local historic structure or located in a local historic district to receive a certificate of appropriateness that exempts it from the minor special use permit requirement for alteration to an existing nonconforming building or structure. National or state historic status does not allow for the same local safeguard.]

Modify Sec. 14.4, Nonconforming Improvements and Structures, paragraph 14.14.1, Nonconforming Buildings or Structures, paragraph B, paragraph 2, as set forth in the underlining below.

Sec. 14.4 Nonconforming Improvements and Structures

[Paragraph is omitted.]

14.4.1 Nonconforming Buildings or Structures

[Paragraphs A and C are omitted.]

B. [Paragraph is omitted.]

[Paragraphs 1 and 3-7 are omitted.]

- 2. Alterations to a structure designated as a local historic landmark or located in a local historic district that has received a certificate of appropriateness for the alteration;

SECTION 29

[Clarify single-family, two-family, and multi-family housing types.]

Modify Section 16.3, Defined Terms, definition of "Single-family" and add definition of "Multi-family", as set forth in the strike-outs and underlining below.

Sec. 16.3 Defined Terms

Single-family: As described in Sec. 7.1, Housing Types: single-family detached house; zero lot-line house; traditional house; patio house; or semi-attached house. Not to include manufactured housing.

Multi-family: As described in Sec. 7.1, Housing Types: townhouse; multiplex; or apartment. This definition does not include duplex.

SECTION 30

[Revise various sections to reflect the 2008 City Code revisions.]

Modify the following sections: Section 6.11, Planned Districts, paragraph 6.11.4, University and College District (UC), paragraph K, Solid Waste; Sec. 7.1, Housing Types, paragraph 7.1.1, In General, Commentary; Sec. 7.8, General Performance Standards, paragraph 7.8.7, Noise; and Sec. 8.7, Watershed Protection Overlay Standards, paragraph 8.7.2, General Requirements, paragraph F, Wastewater Treatment and Facilities, paragraph 2, Sanitary Sewer Services, paragraph c, as set forth in the strike-outs and underlining below.

Sec. 6.11 Planned Districts

6.11.4 University and College District (UC)

[Paragraphs A-J and L are omitted.]

K. Solid Waste

The requirements of Chapter 58 of the City Code, Solid Waste Collection and Disposal, may be modified on projects within the UC District if the college or university has filed a solid waste master plan with the Cit and that plan has been approved by the Solid Waste Director, or designee.

Sec. 7.1 Housing Types

7.1.1 In General

Commentary: All residential uses shall meet Durham Housing Code requirements as set forth in Chapter 10, Buildings and Building Regulations* of the Durham City Code.

[Paragraphs A and B are omitted.]

Sec. 7.8 General Performance Standards

7.8.7 Noise

Noise shall be regulated by Article II, Noise, of Chapter 26, Environment, Litter, Vandalism and Pollution of the Durham City Code or Article 11 of Chapter 14 (Environment) of the Durham County Code, as appropriate.

Sec. 8.7 Watershed Protection Overlay Standards

8.7.2 General Requirements

[Paragraphs A-E and G are omitted.]

F. Wastewater Treatment and Facilities

[Paragraph 1 is omitted.]

2. Sanitary Sewer Services

[Paragraphs a and b are omitted.]

c. In considering such extensions, all reasonable alternatives shall be considered prior to a decision to extend the sewer services. All service connections, installed in accordance with the North Carolina Plumbing Code, shall be permitted only in accordance with Article III, Water and Sewer Main Extensions*, of Chapter 70, Utilities*, of the Durham City Code.

SECTION 31

[Adopt new floodplain documents in Sec. 8.4.2, Applicability, as required by FEMA and state law. Revise various UDO sections to accord with a Future Conditions model ordinance recommended by the state and to clarify that Future Conditions Flood Hazard Areas as well as Special Flood Hazard Areas are regulated as authorized under Sec. 8.4.2, Applicability. Remove conflicts between the development approval requirements in Sec. 8.4.3, Standards, and Sec. 8.4.4, Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas.]

Modify Sec. 3.6, Subdivision Review, paragraph 3.6.6, Preliminary Plat Requirements, paragraph C, Proposed Conditions; Sec. 5.4, Accessory Uses and Structures, paragraph 5.4.1, General, paragraph E, and paragraph 5.4.2, Accessory Dwellings, paragraph A, In All Districts; Sec. 6.11, Planned Districts, paragraph 6.11.3, Planned Development Residential (PDR), paragraph C, Intensity; Sec. 8.4, Floodplain and Flood Damage Protection Standards, paragraph 8.4.2, Applicability, paragraph 8.4.3, Standards, paragraph A, General, paragraph 10, paragraph B, Specific Standards, paragraph 1, Subdivisions, paragraph 4, Manufactured Homes, and paragraph 7, Recreational Vehicles, and paragraph E, Floodway and Non-Encroachment Areas, and paragraph 8.4.4, Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas, introductory paragraph, paragraph A, Development Allowed, and paragraph C,

Development Requiring Development Review Board Approval; Sec. 14.4, Nonconforming Improvements and Structures, paragraph 14.4.1, Nonconforming Buildings or Structures, paragraph B; Sec. 15.7, Inspections and Investigations, paragraph 15.7.2, Inspections of Private Property, paragraph A; Sec. 16.2, Abbreviations; and Sec. 16.3, Defined Terms, as set forth in the strikeouts and underlining below.

Sec. 3.6 Subdivision Review

3.6.6 Preliminary Plat Requirements

[Paragraphs A, B, and D are omitted.]

C. Proposed Conditions

[Paragraphs 1-9 are omitted.]

10. Within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas: demonstration that the subdivision will minimize flood damage through the location and construction of all public utilities and facilities, including water and sewer systems; adequate drainage in accordance with adopted standards to reduce exposure to flood hazards.

Sec. 5.4 Accessory Uses and Structures

5.4.1 In General

[Paragraphs A-D are omitted.]

E. Within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas, an accessory structure shall not exceed 1,000 square feet in area and shall meet the following criteria:

[Paragraphs 1-7 are omitted.]

5.4.2 Accessory Dwellings

When allowed, accessory dwellings shall be subject to the following additional requirements:

A. In All Districts

1. Accessory dwellings shall not be permitted in Special Flood Hazard Areas or Future Conditions Flood Hazard Areas.

2. One additional off-street parking space shall be provided.

[Paragraph B is omitted.]

Sec. 6.11 Planned Districts

6.11.3 Planned Development Residential (PDR)

[Paragraphs A, B, and D-I are omitted.]

C. Intensity

1. Residential Density

The specific maximum density in units per acre, other than the areas proposed for nonresidential development and areas precluded from consideration for density in Secs. 8.4.4, Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas, 8.5.7, Density Credits, and 8.8.4, Density Credits, shall be included in the application. The allowable density shall be consistent with the land use designation shown in the Comprehensive Plan.

[Paragraphs 2 and 3 are omitted.]

Sec. 8.4 Floodplain and Flood Damage Protection Standards

8.4.2 Applicability

This section shall apply to all Special Flood Hazard Areas and Future Conditions Flood Hazard Areas within the City and County of Durham as identified by the Federal Emergency Management Agency (FEMA) or produced under the Cooperating Technical State (CTS) agreement between the State of North

Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying flood maps, such as the Flood Insurance Rate Map(s) (FIRM) for Durham County dated May 2, 2006; February 2, 2007; April 16, 2007; June 4, 2007; August 2, 2007; or May 16, 2008, are adopted by reference and declared to be a part of this ordinance. Also adopted by reference and declared to be a part of this ordinance are associated Physical Map Revisions and Letters of Map Change issued by FEMA as of [date on which ordinance has been adopted by both governing bodies]. The Special Flood Hazard Areas and Future Conditions Flood Hazard Areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to, detailed flood data:

- A. generated as a requirement of Sec. 3.22.2.B (11 & 12), Duties and Responsibilities;
- B. preliminary FIRMs where more stringent than the effective FIRM; or
- C. post-disaster Flood Recovery Maps.

8.4.3 Standards

A. General

In all Special Flood Hazard Areas and Future Conditions Flood Hazard Areas the following provisions are required:

[Paragraphs 1-9 are omitted.]

10. Fill material shall be used for all new construction and substantial improvements to create an elevation that is two feet above base flood elevation or future conditions flood elevation, except as otherwise authorized pursuant to Sec. 8.4.4, Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas. The fill material shall be required to extend for a distance of 40 feet from the exterior walls of a building. Where the distance to the property line is less than 40 feet, the fill shall extend to the property line. The required fill material distance shall include a sloped edge with a maximum 3:1 slope [for example, for a fill three feet deep: 31 feet of flat fill plus nine feet of sloped fill] or a retaining wall in lieu of the slope [for example, a side yard of flat fill and a retaining wall]. Residential accessory structures which are defined as nonhabitable structures by the North Carolina Building Code are exempt from requirements to extend the fill material away from the base but are required to be placed on fill which is two feet, or five feet in Zone A, above base flood elevation. Exceptions from any of these requirements resulting from special storm water considerations shall be forwarded to the approving authority if other than the Floodplain Administrator, with a recommendation from the Floodplain Administrator.

B. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided and in Future Conditions Flood Hazard Areas where future conditions flood elevations data has been provided, as set forth in Sec. 8.4.2, Applicability, or Sec. 3.22.1.B (11 & 12), Duties and Responsibilities, the following provisions are required:

1. Subdivisions

[Paragraph a is omitted.]

- b. When permitted, development proposals located within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas shall:

[Paragraphs 1-4 are omitted.]

[Paragraphs 2 and 3 are omitted.]

4. Manufactured Homes

[Paragraphs a-c are omitted.]

- d. All new, substantially improved or substantially damaged manufactured home parks or subdivisions located within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas shall prepare an evacuation plan for evacuation of all residents. The plan shall be filed with the Inspections Director, or designee (as the Floodplain Administrator) and the Emergency Management Coordinator prior to the time of site plan approval, plat approval, or building permit, if site plans or plats are not required.

- e. Manufactured homes, except replacement manufactured homes located in an existing manufactured home park or subdivision, shall not be permitted in the floodway or non-encroachment area. Permitted manufactured homes shall be subject to the non-encroachment standards of Sec. 8.4.3E, Floodway and Non-Encroachment Areas.

[Paragraphs 5 and 6 are omitted.]

7. Recreational Vehicles

Recreational vehicles shall not be located within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas for 180 days or more and shall be licensed and ready for highway use (on wheels attached to a site by quick-disconnect type utilities with no permanently attached additions). Recreational vehicles not meeting these standards shall meet the standards of manufactured homes above.

[Paragraphs 8 and 9 are omitted.]

[Paragraphs C and D are omitted.]

E. Floodway and Non-Encroachment Areas

Located within the Special Flood Hazard Areas established in Sec 8.4.2, Applicability, are areas designated as floodways or non-encroachment areas, which are extremely hazardous due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. In such areas no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless the Federal Emergency Management Agency (FEMA) authorizes conditional approval of the proposed encroachment via a Conditional Letter of Map Revision (CLOMR) or a professional engineer registered in the State of North Carolina certifies that such uses will result in no increases in flood levels during the occurrence of a base flood, as demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice if required by the Floodplain Administrator.

[Paragraph F is omitted.]

8.4.4 Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas

Development and land disturbing activity within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas shall be prohibited, except as provided

below. The Floodplain Administrator and the governing bodies shall not approve development that is located below the regulatory flood protection elevation if such development is otherwise required to be located at or above the regulatory flood protection elevation or is not permitted within the Special Flood Hazard Areas or Future Conditions Flood Hazard Areas. Development addressed under Sec. 8.4.3C, Floodplains without Base Flood Elevations, and Sec. 8.4.3D, Floodplains with Base Flood Elevations but no Established Floodway or Non-Encroachment Areas, shall be deemed floodway development for purposes of this section.

[Paragraphs A, B, and D-F are omitted.]

C. Development Requiring Development Review Board Approval

[Paragraphs 1 and 2 are omitted.]

3. Land in the floodway or non-encroachment area may be used for the following purposes, and may be filled in support of such uses, if the certification required under Sec. 8.4.3C, Floodplains without Base Flood Elevations, Sec. 8.4.3D, Floodplains with Base Flood Elevations but no Established Floodway or Non-Encroachment Areas, or Sec. 8.4.3E, Floodway and Non-Encroachment Areas, as appropriate, has been provided if the DRB determines that such uses are designed and shall be constructed to minimize clearing, grading, erosion and water quality degradation.
 - a. Crossings by streets, driveways, pedestrian walkways, and railroads provided that they cross Special Flood Hazard Areas or Future Conditions Flood Hazard Areas as nearly perpendicular to the stream as possible. Such facilities may run within and parallel to the stream if no other access to the property is feasible.
 - b. Intakes, docks, piers, utilities (including water and wastewater treatment, stormwater control and sedimentation and erosion control facilities), bridges, other public facilities and water-dependent structures.
 - c. Other encroachments authorized by FEMA.

Sec. 14.4 Nonconforming Improvements and Structures

14.4.1 Nonconforming Buildings or Structures

[Paragraphs A, C, and B except for paragraphs 6 and 7 are omitted.]

6. Reconstruction of buildings not located in Special Flood Hazard Areas or Future Conditions Flood Hazard Areas other than single family houses that have been destroyed, if the cost of reconstruction does not exceed 50% of the appraised tax value of the original building, and if the reconstruction does not increase the degree or extent of the nonconforming feature.
7. Reconstruction of single family houses not located in Special Flood Hazard Areas or Future Conditions Flood Hazard Areas that have been destroyed if the reconstruction does not increase the degree or extent of the nonconforming feature.

Sec. 15.7 Inspections and Investigations

15.7.2 Inspections of Private Property

- A. Inspections on private property to determine compliance may be made at any reasonable time with the consent of the occupant of the property, except that, on

projects being developed within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas, the Inspections Director, or designee (acting as the Floodplain Administrator) shall have authority to make as many inspections of the work as may be necessary to ensure that it is being done according to the requirements of this ordinance and the terms of the permit. In exercising this authority within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas, the Inspections Director, or designee, shall have a right, upon presentation of credentials, to enter on any premises within the jurisdiction at any reasonable hour for the purposes of inspection and/or enforcement.

[Paragraph B is omitted.]

Sec. 16.2 Abbreviations

[FBFM and FHBM are deleted. All other abbreviations are omitted.]

Sec. 16.3 Defined Terms

Base Flood Elevation (BFE): The water surface elevations for the Base Flood as published in the Flood Insurance Study. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Regulatory Flood Protection Elevation in Special Flood Hazard Areas.

Flood Insurance Study (FIS): A report that includes an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMS).

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway Fringe: The portion of the Special Flood Hazard Area that is outside of the Floodway.

Letter of Map Amendment (LOMA): An official determination by FEMA that a property has been inadvertently included in a Special Flood Hazard Area as shown on an effective FIRM and is not subject to inundation by the one percent annual chance flood. Generally, the property is located on natural high ground at or above the BFE or on fill placed prior to the effective date of the first NFIP map designating the property as within a Special Flood Hazard Area. Limitations of map scale and development of topographic data more accurately reflecting the existing ground elevation at the time the maps were prepared are the two most common bases for LOMA requests.

Reference Level: The top of the lowest floor for structures within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas designated as Zone AE, A, A99, AO, or X (Future).

SECTION 32

That the Unified Development Ordinance shall be renumbered as necessary to accommodate these changes and clarifications.

SECTION 33

That this amendment of the Unified Development Ordinance shall become effective upon adoption.

Public Hearing—Unified Development Ordinance (UDO) Text Change—Outdoor Recreation (TC0900001)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board receive public comments on Text Change—Outdoor Recreation (TC0900001) and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 5, Use Regulations. He reported that the amendment was requested by Dan Lefebvre of Triangle Sports Social Club (TSSC) on December 29, 2008. Mr. Lefebvre would like to convert a former Durham County landfill on Wrenn Road to a private athletic facility for soccer and other sports. The facility would be classified as an “outdoor recreation” use under the UDO. Mr. Lefebvre requests removal of the requirement that an outdoor recreation use has direct access from a major or minor thoroughfare, and staff agreed that the requirement should be changed. On March 4, 2009, the JCCPC considered staff’s presentation of the request and recommended that the amendment move forward. On April 12, 2009, the Planning Commission held a public hearing on the item and voted unanimously to recommend approval.

Mr. Medlin responded to a question by Commissioner Heron, stating that the text change would not pose an issue if the recreation use is converted to commercial. He explained that converting to commercial would be in keeping with other public park facilities.

Commissioner Heron spoke in support of Mr. Lefebvre’s plan for a private athletic facility. She expressed desire to see additional improvements to the Wrenn Road area.

Chairman Page opened the public hearing that was properly advertised. As no one signed up to speak, he closed the public hearing and referred the matter back to the Board.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the Unified Development Ordinance (UDO) Text Change—Outdoor Recreation (TC0900001).

The motion carried unanimously.

**AN ORDINANCE TO AMEND PROVISIONS OF THE UNIFIED
DEVELOPMENT ORDINANCE REGULATING OUTDOOR RECREATION**

WHEREAS, the Durham County Board of Commissioners wishes to amend certain provisions regarding outdoor recreation in the Unified Development Ordinance; and

WHEREAS, it is the objective of the Durham County Board of Commissioners to have the UDO promote the health, safety, and general welfare of the community;

NOW, THEREFORE, be it ordained that Article 5, Use Regulations, is amended to make the following changes:

SECTION 1

Modify Section 5.3, Limited Use Standards, paragraph 5.3.4, Commercial Use Standards, paragraph P, Outdoor Recreation, as set forth in the strikeouts and underlining below.

5.3.4 Commercial Use Standards

P. Outdoor Recreation

Outdoor recreation activities shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following:

1. If not otherwise required, a minor special use permit shall be required if any access to the site is through or adjacent to (including directly across a public right-of-way) a residential district or use, unless such access is consistent with an approved development plan that accurately specifies the type, size, and intensity of use.
2. A 50-foot setback from any property line adjacent to a residential district or use shall be maintained for any unlighted structure, food sale or dining area, playground, viewing area, court, field, or other athletic or entertainment area or facility.
3. A 100-foot setback from any property line adjacent to a residential district or use shall be maintained for any lighted structure, food sale or dining area, playground, viewing area, court, field, or other athletic or entertainment area or facility. In addition, the site plan shall include documentation by a registered professional with experience in lighting certifying that the lighting does not exceed 0.5 foot-candle at the property line of any adjacent residential district or use.
4. Food sales shall be provided for patrons of the recreational activity only.

SECTION 2

That the Unified Development Ordinance shall be renumbered as necessary to accommodate these changes and clarifications.

SECTION 3

That this amendment of the Unified Development Ordinance shall become effective upon adoption.

Adjournment

There being no further business, Chairman Page adjourned the meeting at 9:23 p.m.

Respectfully Submitted,

Yvonne R. Jones
Deputy Clerk to the Board